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School Reform Commission
School District of Philadelphia
440 North Broad, Suite 101
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Dear Chairperson Marjorie G. Neff and Commissioners,

Every year in Philadelphia, too many of our City’s youngest children are pushed out of schools and sent on a trajectory that leads to poor educational outcomes and increased involvement with the juvenile justice and adult criminal justice systems. **We ask the SRC to join with a national movement of education leaders and policy-makers to dismantle the School-to-Prison Pipeline by eliminating suspensions for students in Kindergarten through second grade.**¹

Whenever a school makes the decision to suspend a student, it increases that child’s likelihood of future educational barriers and challenges, including discipline, truancy, and dropout, which feed the School-to-Prison Pipeline.² Excluding children for their behavior labels those children as exhibiting problem behaviors from an early age. This label sticks with children as they progress, “giving teachers negative expectations of their behavior.”³ Consequently, exclusionary discipline makes students feel as if the academic environment is not one in which they are welcome.⁴ Further, research has demonstrated that exclusionary discipline does *not* have the deterrent effect that some might believe,⁵ and that reliance upon it disproportionately impacts African American students and students with disabilities.⁶ With this in mind, it is imperative that we stop excluding our youngest

¹ A number of other districts and cities, including Minneapolis and Seattle, have extended these protections for **all** elementary school students, not just through second grade.

² American Civil Liberties Union of Pennsylvania, *Beyond Zero Tolerance: Discipline and Policing in Pennsylvania Public Schools*, at 7 (Feb. 2015) (“[Texas study] found that students who were suspended or expelled, especially repeatedly, were more likely to be held back a grade or drop out of school than other students.”); Harold Jordan, *What’s Wrong with Criminalizing Our Early Learners?*, NAT. BLACK CHILD DEVELOPMENT INST. (2016), <http://www.nbcdi.org/whats-wrong-criminalizing-our-early-learners>.

³ Harold Jordan, *supra* note 2.

⁴ See Appendix A, Testimony from members of PowerCorpsPHL.

⁵ American Psychological Association, Zero Tolerance Task Force Report, *Are Zero Tolerance Policies Effective in Schools?: An Evidentiary Review and Recommendations*, 63(9) AM. PSYCHOL. 852, 854 (challenging common assumptions about exclusionary discipline, researchers found that excluding children who exhibit problematic behaviors from school did not deter their future misbehavior, but rather predicted future misbehavior by those students).

⁶ Russel Skiba, et al., *Where Should We Intervene? Contributions of Behavior, Student, and School Characteristics to Suspension and Expulsion*, THE EQUITY PROJECT, at 6, 12, 15 (Jan. 2013); Tony Fabelo, et al., *Breaking Schools’ Rules: A Statewide Study of How School Discipline Relates to Student’s Success and Juvenile Justice Involvement*, JUSTICE CENTER, at 40 (July 2011).

learners from the academic environment through ineffective and often racially disproportionate methods of discipline, particularly through suspensions.

We fully support the School District of Philadelphia (“District”) in its proposal to remove suspensions for Kindergarten students. This is an important and necessary improvement. But we remind this body that suspensions are just as harmful for 6- and 7-year old students as they are for 5-year old students. We are not aware of any research indicating a significant developmental or behavioral management difference between the 5- and 6-year old students in Kindergarten and the 6- and 7-year-old students in first and second grade.

Based on the 2014-15 Safe Schools LEA Report, the District meted out **1,900** out-of-school suspensions to second graders, **1,504** to first graders and **448** to Kindergarten students. Over ninety percent of these suspensions were for “misconduct” – non-violent incidents. These suspensions are **harming** our youngest learners.⁷ The United States Department of Education (“ED”) has issued guidance calling for the prevention, limitation, and elimination of suspensions in early childhood settings. Similarly, the Pennsylvania State Interagency Coordination Council for Early Intervention (“SICC”) recently recognized the harmful impact of school exclusion on young learners and issued a resolution urging the Office of Childhood Development and Early Learning (“OCDEL”) to ban the exclusion of children from early childhood settings.⁸ In its guidance, ED reasoned: “A child’s early years set the trajectory for the relationships and successes they will experience for the rest of their lives, making it crucial that children’s earliest experiences truly foster – and never harm – their development.”⁹ This reasoning applies equally to our youngest elementary learners. Because suspensions have been a long-standing aspect of public education, they are too-often considered innocuous—at worst, ineffectual. For our earliest learners, they are not only ineffectual,¹⁰ but harmful.

Furthermore, when a student is suspended or excluded from the classroom, *all students are harmed*, including those who remain in the classroom. A three-year study of over 17,000 students found that the math and reading scores of students who are *not* being

⁷ Jeffrey Lamont, et al., *Out-of-school Suspension and Expulsion*, 131(3) PEDIATRICS e1000-e1007 (2013); Hanno Petras, et al., *Who Is Most At-Risk for School Removal? A Multilevel Discrete-Time Survival Analysis of Individual- and Context-Level Influences*, 103(1) J. OF EDUC. PSYCHOL. 223 (Feb. 2011); Daniel Losen, et al., *Eliminating Excessive and Unsafe Exclusionary Discipline in Schools: Policy Recommendations for Reducing Disparities*, DISCIPLINE DISPARITIES: A RESEARCH-TO-PRACTICE COLLABORATIVE (Mar. 2014); Tony Fabelo, et al., *supra* at note 7.

⁸ Commonwealth of Pennsylvania, Early Intervention Coordinating Council, *Resolution: Ban Exclusionary Discipline in Early Learning Programs* (April 4, 2016), attached as Appendix B.

⁹ *Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings*, at 2, U.S. DEPT OF EDUC., U.S. DEP’T OF HEALTH AND HUMAN SERVICES, OFFICES OF CIVIL RIGHTS, at 2 (Dec. 20, 2014), <https://www2.ed.gov/policy/gen/guid/school-discipline/policy-statement-ece-expulsions-suspensions.pdf>.

¹⁰ American Psychological Association, Zero Tolerance Task Force Report, *supra* note 6 at 854 (finding that schools with higher rates of school exclusion had *less* satisfactory ratings of school climate).

suspended suffer when their classmates are removed from the learning environment.¹¹ The study found that even when controlling for level of violence and disruption in schools, school funding, and teacher ratios, **having classmates be suspended at an above-average rate negatively impacted the entire student body.**¹²

Philadelphia cannot afford to continue to harm its earliest learners by excluding them from the one place where they should feel safe and supported. The classroom is an opportunity to educate students on appropriate behavior, and if we cannot do that for our youngest learners, we threaten their future chances of success as well as the well-being of the Philadelphia community. We must equip our administrators, teachers, and staff with the skills to respond to student behavior in developmentally-appropriate ways.¹³ We recognize that the District is making good faith efforts to provide Kindergarten teachers with alternative tools to suspensions; however, due to the serious harms of exclusion (to both the student who is suspended and also her classmates), those trainings should be expanded this year to first and second grade teachers and staff.

The District's exclusion of its youngest students is not only developmentally inappropriate, but it disproportionately impacts African American students.¹⁴ A vast majority (90%) of suspensions that the District metes out disproportionately against black students fall within **a broad catch-all category called "conduct," which does not cover violent offenses.** In fact, black and Latino students in Philadelphia are being excluded for subjective behavior, including offenses like "defiance" and "disrespect." This racial disparity exists in spite of data indicating that black students are not more prone to misbehavior than other racial groups.¹⁵ The District must end exclusionary discipline practices that disproportionately impact students of color. An excellent starting point is the elimination of exclusionary discipline for the youngest learners.

A number of other school districts, cities, and the state of Connecticut have ended exclusionary discipline for their youngest learners. Many of those districts have similar challenges, demographics, and resources as the District. For example:

- Minneapolis no longer suspends students in elementary school for non-violent behavior, having run a successful pilot program for students in elementary school during the 2014-15 academic year.

¹¹ Brea L. Perry & Edward W. Morris, *Suspending Progress: Collateral Consequences of Exclusionary Punishment in Public Schools*, 79 AM. SOCIOLOGICAL REV. 1067 (2014).

¹² Jane Meredith Adams, *Study: Suspensions harm 'Well-Behaved' Kids*, EDSOURCE, Jan. 8, 2015.

¹³ At ELC, we recognize the importance of ensuring that schools are adequately resourced to promote positive school climate. Thus, we support the District in our advocacy for additional State funding to ensure teachers and staff have adequate resources to support these changes.

¹⁴ In the 2009-10 school year, African American students represented 78% of students suspended and 62% of students enrolled; white students represented 7% of students suspended and 13% of students enrolled. U.S. DEP'T OF EDUC., *The Transformed Civil Rights Data Collection* (Mar. 2012), <http://ocrdata.ed.gov/Downloads/CMOCRTheTransformedCRDCFFINAL3-15-12Accessible-1.pdf>.

¹⁵ Russel J. Skiba & Natasha T. Williams, *Are Black Kids Worse? Myths and Facts about Racial Differences in Behavior*, THE EQUITY PROJECT, at 6 (Mar. 2014).

- Seattle’s School Board unanimously passed a resolution eliminating suspensions for elementary students for non-violent offenses in September 2015.
- Connecticut law prohibits out-of-school suspensions for students in Kindergarten through second grade, unless, after a hearing, it is determined that the student’s behavior is of a violent or sexual nature.¹⁶
- New York City recently committed to eliminating suspensions for students in Kindergarten through second grade.¹⁷
- Baltimore,¹⁸ Houston,¹⁹ and Chicago²⁰ have all adopted similar policies.²¹

We ask the SRC to join this national movement and eliminate suspensions for students in grades K-2 for the 2016-17 academic year, making exceptions only where necessary by law or where a student’s conduct inflicted serious bodily injury on another person.

Alternatively, if the SRC adopts the Code of Student Conduct as proposed by the District, we urge the SRC to define “violent” offenses²² so that teachers and administrators have clear notice of the types of student offenses for which they may still suspend Kindergarten students. Without a clear definition of “violent” offense, it is likely that educators will continue to exclude Kindergarten students for “conduct” offenses that reflect developmentally-appropriate behavior.

Thank you for your consideration.

Sincerely,

Education Law Center-PA
Deborah Gordon Klehr, Esq.
Kristina Moon, Esq.
Alex Dutton, Esq.
Michaela Ward

¹⁶ CONN. GEN. STAT. § 10-233c(g).

¹⁷ Alex Zimmerman, *City Will No Longer Suspends Students in Grades K-2, and Releases a Slew of New School Crime Data*, CHALKBEAT, July 21, 2016.

¹⁸ Erica L. Green, *City Seeks to Curb Pre-K and Kindergarten Suspensions*, THE BALTIMORE SUN, July 9, 2014.

¹⁹ Ericka Mellon, *HISD Board Approves Wide-Ranging Changes, Including Suspensions Ban for Young Students*, HOUSTON CHRONICLE, Jan. 15, 2015.

²⁰ Chicago Public Schools, Student Code of Conduct, at 6 (Sept. 22, 2015), available at <http://policy.cps.edu/download.aspx?ID=263>.

²¹ These districts are comparable to the School District of Philadelphia. **Minneapolis Public Schools**: approximately 36,000 students, a four-year high school graduation rate of 45.3%, and 23,000 students of color, many of whom live in poverty; **Chicago Public Schools**: approximately 396,000 students, 90% students of color, 86% economically disadvantaged; **Baltimore City Schools**: approximately 83,000 students, 126 elementary schools, 87% students of color, 84% low income, 66% graduation rate.

²² Violent offense should be defined to accord with the Juvenile Act, which defines serious bodily injury as “bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.” 42 Pa.C.S. § 6302.

ACLU of Pennsylvania
Harold Jordan, Senior Policy Advocate

Philadelphia Student Union
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cc:

Dr. William Hite, Jr., Superintendent
Rachel Holzman, Esq., Deputy Chief, Student Rights & Responsibilities
Jody Greenblatt, Esq., Deputy Chief, School Climate & Safety

Enclosed:

Appendix A, Testimony of PowerCorpsPHL
Appendix B, Commonwealth of Pennsylvania, Early Intervention Coordinating Council,
Resolution: Ban Exclusionary Discipline in Early Learning Programs (April 4,
2016).