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Dear Mayor Kenney and Members of the Educational Nominating Panel,

As you know, forming a new Board of Education to govern the School District of Philadelphia presents a daunting responsibility and critical opportunity for Philadelphia to meet the needs of our city's most vulnerable students. The District is one of the most diverse and dynamic in the country, with 202,538 students in 339 schools across the city, 15,532 English learners speaking 107 languages, 70% low-income students, and one-third of our public school students attending 84 charter schools. Members of the new Board of Education must understand students' rights and prioritize the needs of our most vulnerable student cohorts in order to fulfill the District's vision of "deliver[ing] on the right of every child in Philadelphia to an excellent public school education."

Among the organizations sharing in this vision is the Education Law Center (ELC), a nonprofit legal advocacy organization dedicated to ensuring that all of Pennsylvania's children have access to quality public education. For over 40 years, ELC has successfully advocated on behalf of students historically underserved by public education, including students in poverty, students of color, LGBT students, students involved in the juvenile justice and foster care systems, English learners, students with disabilities, pregnant and parenting teens, and students experiencing homelessness. ELC works on behalf of thousands of families each year, providing individual legal representation and systemic advocacy on issues of public education. ELC receives hundreds of calls from families and students through our Helpline, and also engages in conversations with advocates, community groups, teachers, administrators, and other child-serving professionals regarding the needs of public school students.

With decades of experience working with the District and with families who attend Philadelphia public schools, we offer the following recommendations as you consider applicants for the new Board of Education. We hope you will focus on five key areas of responsibility that every Board member should commit to upholding.

***1. Support All Students to Learn***

It is imperative that Board members understand the unique and significant learning needs of diverse student cohorts through an intersectional lens. Philadelphia's school landscape reflects both student successes and deep-seated inequities that disadvantage students of color and other populations. Philadelphia's new Board members must delve into these issues and be prepared to address the specific challenges faced by diverse learners.

For example, **English learners** (ELs) account for around 10 percent of the District's enrollment. These students and their families need significant support from their schools to meaningfully access the academic curriculum and thrive in a supportive school environment. Unfortunately, studies suggest that these students are not getting the services they need and are being left behind. In Philadelphia, significantly more English learners scored "below basic" than non-English learners on academic proficiency exams in all subjects. For example, 77 percent of ELs scored "below basic" in Biology compared to 37 percent of non-ELs. In Algebra, 45 percent of ELs scored "below basic" compared to

only 19 percent of non-ELs.<sup>1</sup> In high school, ELs tend to have lower GPAs and earn fewer course credits and are more likely to drop out compared to their non-EL peers.<sup>2</sup>

These student outcomes will not improve without: greater monitoring and oversight to ensure the consistent use of effective language instruction modalities across the District; specific policies governing ESOL instruction hours based on language proficiency levels; expansion of bilingual programs; districtwide trainings for teachers; and a strong language access policy to ensure meaningful parent and student participation, particularly in the special education context. In the absence of such changes – implemented with fidelity across all schools – students with limited English proficiency (LEP), including immigrants, are not able to meaningfully access the curriculum, and LEP parents are denied their right to participation in their child’s education.<sup>3</sup>

The Board must implement critical changes to effectively address the educational needs of **students with disabilities**, particularly with regard to ensuring the legal right of these students to be educated in the least restrictive environment with non-disabled peers. Over 20 years of research has consistently demonstrated that the inclusion of students with disabilities in general education classrooms results in more favorable outcomes for students with and without disabilities.<sup>4</sup> The Board must work to significantly expand learning opportunities in inclusive settings with sufficient supplementary aides and services. It also must mandate training and provide support for teachers and administrators to sustain an inclusive culture, including access to behavioral consultants, and model high expectations of success for all children. In addition, the Board must enact policies to significantly reduce the high number of students with disabilities who are suspended, expelled, or placed in alternative education settings.

Additionally, the Board must address the unique needs of other educationally at-risk student cohorts, including **students in foster care** and those **experiencing homelessness** who have a legal right to school stability and immediate enrollment, **youth in the juvenile justice system**, and **pregnant and parenting teens**. Too often these students who experience educational disruptions fail to receive the help they desperately need. They face significant barriers to re-enrollment, are placed in inferior alternative settings, and struggle to ensure that credits earned in residential placements are recognized. All of these vulnerable student cohorts need access to additional targeted supplemental remedial services and expanded learning opportunities rather than automatically diverting them to accelerated programs. We must adopt school district policies that include graduation planning and credit waivers to enable these youth to forge a path to a meaningful diploma. Pregnant and parenting teens in particular need new policies to ensure they receive access to school work while on leave, graduation planning, and help accessing day care.

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<sup>1</sup> See School District of Philadelphia Academic Proficiency Results, 2016 Tests, available at <https://www.philasd.org/performance/pssakeystone/>.

<sup>2</sup> PERC, Characteristics of English Language Learners in the School District of Philadelphia (2016) at n.2, available at <https://www.phillyeducationresearch.org/projects/educating-english-language-learners/>.

<sup>3</sup> See ELC Testimony to the School Reform Commission of the School District of Philadelphia: Meeting the Needs of English Language Learners, Immigrant Families & Limited English Proficient Parents, Mar. 16, 2017, <https://www.elc-pa.org/wp-content/uploads/2017/03/SRC-Testimony-ELL-Students-03-2017.pdf>; ELC Testimony at Supporting Immigrant Students Town Hall, Jan. 24, 2017, <https://www.elc-pa.org/wp-content/uploads/2017/02/ELC-Testimony-Re-Meeting-the-Needs-of-Immigrant-Students-Jan24th.pdf>.

<sup>4</sup> Inclusive education Research and Practice. Xuan Bui, Carol Quirk, Selene Almazan, Michele Valenti, [http://www.mcie.org/usermedia/application/6/inclusion\\_works\\_final.pdf](http://www.mcie.org/usermedia/application/6/inclusion_works_final.pdf) (collecting studies).

## ***2. Provide a Safe and Affirming Environment for Every Student***

Every decision of the Board should be motivated by the principle that all students have the right to a safe and supportive school experience.

The presence of security/police officers in schools does not make them safer, and too often, these officers actually harm students because they are ill-equipped to engage with students and have fostered no trust.<sup>5</sup> School police should not play the role of school disciplinarian. School police are more likely to interpret minor behavior such as interrupting class or being disrespectful to teachers as criminal behavior.<sup>6</sup> The presence of police in schools disproportionately impacts students of color<sup>7</sup> and students with disabilities.<sup>8</sup> The Board must work to remove police from schools and prioritize the implementation of positive behavior supports that support students to learn in a positive school climate. Superintendent Hite's pledge that no school should have more police officers than counselors is a positive step in that direction.

Students have the right to be free from bullying or peer harassment, and the Board must hold school staff responsible for investigating peer harassment promptly and fully, and work with families to find a prompt and effective resolution that keeps each child learning in a safe space, rather than referring students to truancy court.<sup>9</sup>

Safety also includes the right to be safe from discrimination and biased school discipline that disproportionately punishes students with disabilities and Black and Latino students more harshly than white peers for the same type of behavior. Our youngest learners have been suspended at unacceptably high rates, with Black children bearing disproportionate rates of this exclusionary discipline. The Board must maintain the District's prior commitment to ban the use of out-of-school suspension in kindergarten, first and second grades.<sup>10</sup> This progressive policy change will bring the District in line with others across the country – including Pittsburgh, Houston, and New York – that have moved away from harmful and ineffective suspensions of young learners.

When the District proposes the extreme action of expelling a student, it falls to the Board to affirm expulsion decisions recommended by a school hearing officer. These should be scrutinized on an individual basis as befits the serious deprivation an expulsion causes for any child. Board members must also address the disproportionate exclusion and punishment of children of color in schools across the District through evidence-based strategies that are proven to reduce racial disproportionality, such as restorative justice practices, social and emotional learning strategies, teacher training, student support teams, and other techniques.<sup>11</sup>

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<sup>5</sup> See, e.g., *Parents and advocates call for more school-police accountability after incident at Solis-Cohen Elementary*, The Notebook, Dec. 12, 2017, <http://thenotebook.org/articles/2017/12/12/parents-local-advocates-call-for-more-school-police-accountability-after-incident-at-solis-cohen-elementary-school>; *Student's family files complaint against school police officer*, The Notebook, May 13, 2016, <http://thenotebook.org/latest0/2016/05/13/student-s-family-files-complaint-against-school-police-officer>.

<sup>6</sup> Justice Policy Institute, *EDUCATION UNDER ARREST: THE CASE AGAINST POLICE IN SCHOOLS* (2011), at 13-14, [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

<sup>7</sup> See *Locked Out of the Classroom: How Implicit Bias Contributes to Disparities in School Discipline*, at 8, Legal Defense Fund, 2017, [http://www.naacpldf.org/files/about-us/Bias\\_Reportv2017\\_30\\_11\\_FINAL.pdf](http://www.naacpldf.org/files/about-us/Bias_Reportv2017_30_11_FINAL.pdf).

<sup>8</sup> See *A state-by-state look at students referred to law enforcement*, Center for Public Integrity, Apr. 10, 2015, <https://www.publicintegrity.org/2015/04/10/17074/state-state-look-students-referred-law-enforcement>.

<sup>9</sup> See, e.g., *Complaint: District fails to address bullying of disabled students*, The Notebook, Jul. 27, 2017, <http://thenotebook.org/articles/2017/07/27/complaint-district-fails-to-address-bullying-of-disabled-students>.

<sup>10</sup> See *ELC Letter to Dr. Hite*, Apr. 27, 2017, <https://www.elc-pa.org/wp-content/uploads/2017/04/Letter-Requesting-Ban-on-Suspensions-of-Elementary-Aged-Students.pdf>. Dr. Hite and Ms. Lynch both orally committed in several public meetings that a suspension ban for first and second graders would be implemented at the beginning of the 18-19 school year.

<sup>11</sup> *Closing the School Discipline Gap: Equitable Remedies for Excessive Exclusion* at pp. 10-21, edited by Daniel Losen of The Center for Civil Rights Remedies at the UCLA Civil Rights Project (CRP/CCRR) (2015).

All District schools can make improvements to truly provide an affirming, supportive environment for transgender and gender non-conforming students that lives up to District Policy 252's promise to ensure safety, equity, and justice for all students regardless of gender identity or gender expression.

### ***3. Strengthen Accountability for Charter Schools***

With more than 70,000 Philadelphia public school students enrolled in brick-and-mortar and cyber charter schools, Board members must commit to critical oversight of the schools they authorize. Board members cannot permit unfettered expansion of charter schools, and the Board must not renew or allow expansion of charter schools that fail to provide a quality education for Philadelphia's students. Further, the Board must ensure that these charter schools do not discriminate against students. It is the Board's responsibility to hold charter schools accountable for greater transparency and providing equitable services. Currently, many charter schools deny access to vulnerable student populations with no repercussions or accountability. For example, some Philadelphia charter schools serve no English learners at all, despite the fact that their immediate neighborhood includes a high percentage of limited-English-proficient students. Additionally, the Board must scrutinize whether charter schools are underserving students with more significant disabilities due to a perverse funding incentive, which contributes to the segregation of our schools based on disability and race.<sup>12</sup> In addition, many vulnerable student cohorts who enter charter schools are subsequently "counseled out" and encouraged to waive their right to due process.

Finally, too many charter schools simply fail their students academically year after year and yet are permitted to continue to operate, only to fail more students. Board members cannot shirk their core responsibility to carefully assess each charter school with reference to their demonstrated academic performance and growth and their commitment to effectively serving all children – at charter renewal periods as well as mid-cycle, as warranted.

### ***4. Ensure Fiscal Responsibility***

There is no question that our school district is woefully underfunded, and advocates like ELC will continue to work with the District and its Board to press the state and City Council to adequately and equitably fund the District. However, it is also the Board's duty to ensure fiscal responsibility, transparency, and accountability in the approval of operating and capital budgets. The Board must ensure that the school and program expenditures it approves deliver the high-quality services our students deserve.

### ***5. Partner with Students, Parents, and Community Members for Strong Schools***

Philadelphia students, parents, and community members are the richest resource that the District has; yet too often we hear parents report that they are made to feel unwelcome in their children's schools and denied opportunities to engage with their child's education. The Board of Education works *for* our students and their families – ensuring the meaningful engagement of parents and other community members requires that all District staff consistently show respect, cultural competence, and professionalism when interacting with any parent or community member. The Board of Education can model this principle by committing to making Board meetings more transparent and accessible to everyone, including by posting agendas, resolutions, and relevant materials two weeks, rather than one day, before meetings; by conducting their deliberation in public as permitted by law; by ending the practice of limiting input based on the number of speakers addressing a particular topic; and by responding to comments and questions from speakers. The Board should also invite parents to propose topics to the Board.

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<sup>12</sup> See ELC Analysis: Inequities in Pennsylvania's Charter Sector: Segregation by Disability, February 2017, <http://www.elc-pa.org/resource/inequities-in-pennsylvanias-charter-sector-segregation-by-disability/>.

The Board must take steps to ensure that all parents are respected, valued as participants in their child's education, and made to feel welcome in their child's school, including by providing racial bias training for all administrators and teachers and providing training and support for Home and School Associations or other parent groups and for parent participants in School Advisory Councils and site selection committees.

Perhaps most importantly, the Board must provide meaningful opportunities for and encourage students to participate in leadership of the District, at the Board level and in every school. Philadelphia students are passionate, creative and thoughtful citizens, and their experiences – as reported by students themselves – should be central to decision-making that affects their education and school environment. We urge the Board to regularly engage with longstanding citywide youth organizations like Philadelphia Student Union and Youth United for Change as well as student groups at every school to share their own vision for their schools and recommendations for the District.

As you consider new Board members, we urge you to take these issues of fairness and access into account and ensure that the Board includes only those who understand and support the rights of students, particularly our most vulnerable. If you have any questions, we would be happy to speak with you about any of our suggestions and priority areas.

Thank you for your consideration.

Sincerely,

Deborah Gordon Klehr, Executive Director

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Kristina Moon, Staff Attorney

**Education Law Center-PA**