



**PHILADELPHIA**  
1800 JFK Blvd., Suite 1900A  
Philadelphia, PA 19103  
T 215-238-6970  
F 215-772-3125

**PITTSBURGH**  
429 Fourth Ave., Suite 702  
Pittsburgh, PA 15219  
T 412-258-2120  
F 412-535-8225

February 3, 2021

**Pennsylvania Juvenile Justice Task Force**

Pennsylvania Judicial Center  
601 Commonwealth Avenue  
P.O. Box 61260  
Suite 1500  
Harrisburg, PA 17106

Dear Co-chairs Sen. Lisa Baker, Sen. Jay Costa, Rep. Tarah Toohil, Rep. Mike Zabel and All Task Force Members:

We are grateful for the leadership of this interbranch Juvenile Justice Task Force (“Task Force”) and its deep commitment to developing evidence-based, data-driven policy recommendations. We appreciate this opportunity to share our recommendations that address critical systemic reforms necessary to meet the educational needs of youth who are placed in residential settings through the juvenile justice system. We also note with concern that the Task Force has not undertaken a direct assessment of the current state of educational access and success for children in the delinquency system who are residentially placed. Given the critical importance of education in the lives of young people, we urge the Task Force to prioritize educational policy reforms within its final recommendations based on currently available research on this topic, the testimony of youth, and these recommendations. We also recommend that the Task Force establish a subcommittee working group which would be responsible for implementing these recommendations through drafting proposed legislation and monitoring enforcement of new laws.

***Who We Are***

ELC is a nonprofit, legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, trainings, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

Over our forty-five year history, ELC has focused on advancing the education rights of children in the child welfare and juvenile justice systems and has helped thousands of children who are system-involved to obtain the educational services they desperately need to achieve life-long



**PHILADELPHIA**  
1800 JFK Blvd., Suite 1900A  
Philadelphia, PA 19103  
T 215-238-6970  
F 215-772-3125

**PITTSBURGH**  
429 Fourth Ave., Suite 702  
Pittsburgh, PA 15219  
T 412-258-2120  
F 412-535-8225

stability and success. We have also worked to advance effective state and national legislation and policy reforms to improve educational outcomes for youth including informing the development of federal and state laws relating school stability, ensuring child welfare professionals have access to education records, data collection, and providing higher education tuition waivers for students who have been in foster care.<sup>1</sup> Along with the Juvenile Law Center and the American Bar Association Center on Children and the Law, ELC co-founded the [Legal Center for Foster Care and Education](#), and is also a co-founder of the [Legal Center for Youth Justice and Education](#), a national collaboration which seeks to ensure that all youth in and returning from the juvenile and criminal justice systems access a quality education. ELC has also played a leadership role at the state and local level as an active member of the *Pennsylvania State Roundtable on Educational Success and Truancy Prevention*, the *Pennsylvania's Child Welfare Council* and the *City of Philadelphia's Youth Residential Placement Task Force* which is currently implementing recommendations for reducing the use of residential placements based on its Report released in 2019.<sup>2</sup>

### *Understanding the Educational Needs of Youth in the Juvenile Justice System*

Education can be a strong stabilizing and empowering force for youth; correlatively, disengaging from education has long-term consequences. Unfortunately, it is well documented that youth in the delinquency systems are among the most educationally at-risk of all student populations.<sup>3</sup> Children placed in residential settings are often placed on a trajectory of school failure that limits their future opportunities, employment, and housing stability. The Task Force's Recommendations must include a focus on the education rights of adjudicated youth as well as systemic reforms to ensure the academic progress of youth in residential placements. In the absence of oversight, accountability, and clearly defined standards, our youth in the juvenile justice system will continue to receive an inferior education that causes them to suffer additional trauma and lifelong consequences. Prioritizing education is necessary if the Task Force is to meet its goals of ensuring accountability and improving outcomes for youth who are system involved.

As was highlighted in our analysis and report, [Unsafe and Uneducated](#) (December 2018), in addition to frequent abuse and mistreatment in residential settings, these youth face a myriad of

---

<sup>1</sup> See e.g., *Every Student Succeeds Act*, 42 U.S.C. § 675(1)(G)); Family Educational Rights and Privacy Act, 20 U.S.C § 1232g(b)(1)(L)(also known as Uninterrupted Scholars Act); Fostering Independence Through Education Waiver, 24 P.S. 26-2601-K et. seq.

<sup>2</sup> A copy of the Youth Residential Placement Task Force Report with implementation updates is available at <https://www.phila.gov/hhs/accomplishments/Pages/youthtaskforce.aspx>.

<sup>3</sup> See e.g., Peter Leone and Lois Weinberg, "Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems" (Washington, DC: The Center for Juvenile Justice Reform, May 2010), 10-11; Southern Education Foundation, "Just Learning: The Imperative to Transform Juvenile Justice Systems into Effective Educational Systems" (Atlanta, GA: 2014).

complex educational barriers that lead to poor academic outcomes. Youth in delinquency systems are uniquely at-risk for educational deprivations in part because they are often separated from their families and lack advocates. Despite these risks, the Pennsylvania Department of Education (“PDE”) exercises little oversight over the quality of education provided to students in residential placements. This core lack of oversight and monitoring must be addressed.

According to national and regional studies, students in delinquency systems also graduate at lower rates, score lower on standardized tests, have higher rates of special education eligibility, and are more likely to repeat a grade than their non-system involved peers.<sup>4</sup> In some jurisdictions in Pennsylvania, 64% of youth involved in the juvenile justice system do not graduate from high school.<sup>5</sup> This often leads to a lifetime of unemployment, under-employment, and homelessness. Studies have found that less than half of youth attending on-grounds schools in juvenile justice facilities earned high school credits, less than 25% of children with learning disabilities received special education services, and only 9% of youth earned a GED or diploma.<sup>6</sup> Instead, many young people languish, completing coursework far below grade level, or trying to teach themselves through cyber programs.

In addition, youth with disabilities are at a higher risk of becoming involved in the juvenile justice system than their non-disabled peers.<sup>7</sup> Figures across the U.S. estimate the percentage at between 30 to 60 percent, with some estimates as high as 85 percent. That means that, in a class of 15 students, anywhere from 5 to 13 of those students may have a learning disability. Approximately 13 percent of juvenile offenders had developmental disabilities, 36 percent had learning disabilities, and many of these young people were referred to the juvenile justice system by their own school.<sup>8</sup>

---

<sup>4</sup> See research studies collected by Legal Center for Youth Justice and Education (2017) available at [https://jjeducationblueprint.org/sites/default/files/YouthJusticeBlueprintGoals\\_6-27-17.pdf](https://jjeducationblueprint.org/sites/default/files/YouthJusticeBlueprintGoals_6-27-17.pdf); Sophia Hwang, Heather Griffis, Lihai Song, David Rubin, *Supporting the Needs of Students Involved with the Child Welfare and Juvenile Justice System in the School District of Philadelphia*, The Children’s Hospital of Philadelphia PolicyLab 9-19 (2014), available at [http://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab\\_Report\\_Supporting\\_Students\\_Involved\\_with\\_Child\\_Welfare\\_June\\_2014.pdf](http://policylab.chop.edu/sites/default/files/pdf/publications/PolicyLab_Report_Supporting_Students_Involved_with_Child_Welfare_June_2014.pdf) (Philadelphia youth with a history of child welfare or juvenile justice involvement score substantially lower on standardized tests, have lower promotion rates, higher rates of absenteeism and special education eligibility and accumulate fewer credits compared to their peers).

<sup>5</sup> Julia Ransom, Heather Griffis, Jennifer Eder, Vaughan Byrnes, et al., *A Promise Worth Keeping, Advancing the High School Graduation Rate in Philadelphia*, Project U-Turn 12 (2014), available at <http://www.projectturn.net/docs/PromiseWorthKeeping.pdf>.

<sup>6</sup> *Just Learning: The Imperative to Transform Juvenile Justice Systems into Effective Educational Systems—A Study of Juvenile Justice Schools in the South and the Nation*, Southern Education Foundation 14-17 (2014), <http://www.southerneducation.org/getattachment/cf39e156-5992-4050-bd03-fb34cc5bf7e3/Just-Learning.aspx>.

<sup>7</sup> Green, D. M., & Twill, S. (2006). *Special education advocacy: An intervention program*. *School Social Work Journal*, 30, 82–91; Quinn, M. M., Rutherford, R. B., Leone, P. E., Osher, D. M., & Poirier, J. M. (2005);

Youth with disabilities in juvenile corrections: A national survey. *Exceptional Children*, 71, 339–345.

<sup>8</sup> Pacer Center. (2013). *Students with disabilities & the juvenile justice system: What parents need to know*. Bloomington, MN: Author. Retrieved from <http://www.pacer.org/jj/pdf/JJ-8.pdf>



**PHILADELPHIA**  
1800 JFK Blvd., Suite 1900A  
Philadelphia, PA 19103  
T 215-238-6970  
F 215-772-3125

**PITTSBURGH**  
429 Fourth Ave., Suite 702  
Pittsburgh, PA 15219  
T 412-258-2120  
F 412-535-8225

Youth with disabilities also commonly fail to receive legally mandated services. All students with disabilities are entitled to a free and appropriate public education, guaranteed to them under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq. However, some studies report that less than half of all incarcerated youth who were identified as having a disability report receiving special education services.<sup>9</sup> One such survey of education services in juvenile corrections found that on average, 33 percent of youth enrolled in in-facility education programs were receiving special education services. The study also found that almost 20 percent of the youth with emotional and behavioral disorders were arrested while in high school.<sup>10</sup>

### ***Systemic Reforms Needed in the Commonwealth***

While most youth placed in residential settings in Pennsylvania are entitled to attend public schools, many are relegated to inferior on-ground schools. Most on-grounds schools are licensed as private academic schools or Private Residential Rehabilitation Institutions (PRRIs) which are not required to align with public school standards or curriculum and are not subject to the same oversight or rigor as public schools. As a result, when youth leave these facilities, they face new challenges as they struggle to transition to community schools. Many find themselves behind in school and often are funneled into alternative schools or inferior accelerated programs. Others find that their credits earned while in an “on-ground” school do not transfer to their home school districts or do not count towards graduation.

Although the Department licenses or certifies on-ground schools, the Department currently conducts no onsite monitoring of the educational program of these schools other than special education monitoring which occurs once every six years.<sup>11</sup> Because these schools are often licensed as private academic schools, there is no oversight of the curriculum provided, qualifications of the teaching staff, instructional modalities utilized, or student progress and achievement. In addition, students with disabilities often do not receive an individualized education program, as legally required, are denied specially designed instruction, related services, or needed supports and programs which are legally required to confer a free appropriate public education.<sup>12</sup>

---

<sup>9</sup> Sedlak, A. J., & McPherson, K. S. (2010). Youth’s needs and services: Findings from the Survey of Youth in Residential Placement. Washington, DC: Office of Juvenile Justice and Delinquency Prevention. Retrieved from <https://www.ncjrs.gov/pdffiles1/ojjdp/227728.pdf>.

<sup>10</sup> Comstock-Galagan, J., & Brownstein, R. (n.d.). Stopping the schoolhouse to jailhouse pipeline by enforcing federal special education law. Montgomery, AL: Southern Poverty Law Center and Southern Disability Law Center. Retrieved from [https://www.njln.org/uploads/digital-library/resource\\_422.pdf](https://www.njln.org/uploads/digital-library/resource_422.pdf)

<sup>11</sup> Pennsylvania Dept. Of Education, <https://www.education.pa.gov/K-12/Special%20Education/CompMon/Pages/Cyclical-Monitoring.aspx>

<sup>12</sup> See e.g., *Unsafe and Uneducated* at pp. 23-24, available at [https://www.elc-pa.org/wp-content/uploads/2018/12/2018\\_Pennsylvania-Residential-Facilities\\_Childrens-Rights\\_Education-Law-Center.pdf](https://www.elc-pa.org/wp-content/uploads/2018/12/2018_Pennsylvania-Residential-Facilities_Childrens-Rights_Education-Law-Center.pdf).



**PHILADELPHIA**  
1800 JFK Blvd., Suite 1900A  
Philadelphia, PA 19103  
T 215-238-6970  
F 215-772-3125

**PITTSBURGH**  
429 Fourth Ave., Suite 702  
Pittsburgh, PA 15219  
T 412-258-2120  
F 412-535-8225

### ***Recommendations for Reform***

In order to meet the Task Force’s goals of ensuring accountability and improving outcomes for youth in the juvenile justice system, ELC urges the Task Force, particularly the Accountability Subcommittee, to incorporate specific reform and oversight measures to address the education needs of youth placed in residential facilities.

In addition to these specific recommendations, we urge all systems to work together to reduce the number of children referred to the juvenile justice system or the criminal justice system by ensuring that educational issues, particularly relating to school attendance, truancy, and school discipline are addressed at the school level rather than used as a basis for referral to these systems.

Nationwide research demonstrates that removing a child from their home and placing them in a residential facility is ineffective at addressing truancy and ignores the underlying causes of truancy and fails to support a re-engagement process with the child’s home school. Such punitive measures do not and cannot address the root causes of a child’s struggles in school that manifest themselves in absenteeism and negative school behaviors. In some cases, these issues directly relate to a school’s failure to identify children who are eligible for special education or accommodations in school due to a wide range of disabilities or the failure to connect children to needed interventions and supports such as mental and behavioral health services and remedial programs. Referring these students to the juvenile justice or criminal justice system based on violations of probation only serve to deepen their involvement in crime and further disengage these students from school. To that end, we urge the Task Force to consider ***eliminating truancy and school discipline infractions as a basis for probation violation that can lead a youth to placement in the adult system.***

### **Proposed Recommendations to Reduce Referrals to Residential Placements**

We urge the Task Force to consider the following recommendations relating to all youth in the juvenile justice system:

- Adopt legislation to ***eliminate truancy as a basis for a court-ordered referral to a residential placement or as a probation violation*** that supports referral to an out-of-home placement. Such legislation should require the collection of data regarding youth referred to delinquency court for truancy and require school districts to work to re-engage the student prior to any court action.

- Adopt legislation to *incentivize decreasing referrals to residential placements* by reducing arrests, prosecution, and institutionalization of youth for minor and misdemeanor offenses, especially truancy, and better utilize diversion programs.
- Adopt legislation similar to Pennsylvania Juvenile Court Rule 148<sup>13</sup> to *ensure school stability for children and youth in the juvenile justice system* and that all parties participate in Best Interest Determination (“BID”) meetings to discuss choices about school placement and to ensure that all systems prioritize school stability and educating students in the least restrictive setting with appropriate supports.
- Increase capacity and access to *evidence-based services in the community* for children in the delinquency system.
- *Expand funding for prevention services* that facilitate in-home support to at-risk families to keep children in their homes and community schools by expanding evidence-based trauma-informed services for children in schools.

### **Proposed Recommendations for the Juvenile Justice Task Force Re: Residential Schools**

We urge the Task Force to consider the following recommendations relating to the rights of youth in the juvenile justice system who are placed in residential settings or group homes:

- The General Assembly shall adopt legislation and amend the Pennsylvania School Code regulations (*e.g.*, 22 Pa. Code § 11.18) to *clearly state that the Department is obligated to ensure a quality education for all children placed in residential facilities* which shall include access to public schools and equal educational opportunities for students who are placed in group homes or in residential children’s institutions pursuant to 24 P.S. § 1306 unless a court order expressly precludes public school placement due to safety concerns.
- The General Assembly shall adopt legislation to ensure that all schools operated in or affiliated with residential facilities that serve publicly placed children and youth *meet the same state academic standards as public schools under the School Code and provide quality educational opportunities* to enable students to stay on track to graduate college and career ready.
  - Based on this statutory requirement, the State Board of Education of Private Academic Schools would be required to amend its current regulations governing licensure of Private Academic Schools (as set forth in 22 Pa. Code Chapter 51) to adopt clear and rigorous standards for educational quality of schools associated

<sup>13</sup> Pa. R.J. C.P. 148, 237 Pa. Code Rule 148 (2018)

with residential placements that serve publicly placed students to align with state standards delineated in Chapter 4 of the Pennsylvania School Code.

- The General Assembly shall adopt legislation to ***ensure that the Pennsylvania Department of Education appropriately licenses and provides rigorous oversight and ongoing monitoring of on-grounds schools*** affiliated with residential facilities to ensure that all youth who are system-involved, including students with disabilities receive the education to which they are legally entitled.

### ***Licensing Requirements and Process***

- The statute shall mandate ***a new licensing system for residential schools that serve publicly placed children and youth*** to require in part a curriculum that aligns with state academic standards set forth in Chapter 4 of the School Code and which is taught by qualified teachers to enable students to earn credits that will be accepted towards graduation. The licensing provisions shall delineate the duties of the local educational agency and state agency to ensure that all students with disabilities receive a free, appropriate, public education in the least restrictive environment and that English learners receive language instruction.
- This statutorily mandated licensing process shall require the Department to promulgate regulations that delineate specific requirements for all on-grounds schools that serve publicly placed students; and outline a licensing approval process implemented by the Department which shall include data collection, an annual on-site review, monitoring, and a complaint system.<sup>14</sup>

### ***Data Collection***

- The General Assembly shall ***mandate annual data collection and public reporting to the Department regarding publicly placed students educated in all residential facilities***, including detention centers which shall include: (1) the percentage of students at each facility who are receive school stability; (2) the percentage of students educated in different types of schools (*e.g.*, on-grounds schools; off-site public schools; other public school programs such as an intermediate unit schools,

---

<sup>14</sup> In response to a [Settlement Agreement](#) between the Department of Justice and PDE in 2019, the Department developed a similar licensing process for Alternative Education for Disruptive Youth Programs. See Alternative Education for Disruptive Youth Basic Education Circular, 24 P.S. § Articles 19-C and 19-E (November 18, 2019) available at <https://www.education.pa.gov/Policy-Funding/BECS/Purdons/Pages/Alternative-Education-for-Disruptive-Youth.aspx>.

approved private schools, cyber schools etc.); (3) graduation rates; and (4) progress of students while in residential placements as denoted by assessment tests regarding reading and math and grade-level promotion.

- The Department shall also be required *to monitor the transition and placement of students returning from a residential placement to a neighborhood school*. Local educational agencies shall be required to report data to the Department relating to the prompt enrollment, appropriate school placement, credits earned, and on-time graduation rates of system-involved students returning from residential placements.

### *Annual Monitoring*

- The Department shall be required to *monitor on-grounds schools on an annual basis* with regard to curriculum alignment with state standards that maximizes credit transferability; teacher quality; instruction modalities; provision of special education services and programs; accommodations for students with qualifying disabilities; and language instruction programs provided to English learners.
- The Department shall make the results of this monitoring transparent by publishing publicly available *“educational performance” reports*.
- The Department’s *Bureau of Special Education shall conduct monitoring every two years* (instead of every six years) to ensure students with disabilities in residential schools are: 1) identified; 2) effectively served by the host school district or on-grounds school; 3) receive services and supports as required by their IEPs; and 4) are educated in the least restrictive environment.
- Monitoring may result in corrective action, revocation of a license, award of compensatory education for students deprived of a free, appropriate, public education, or the imposition of appropriate sanctions on residential schools or LEAs which fail to comply with their legal obligations under state or federal laws, including applicable disability laws.

### *Monitoring of Students Exiting Residential Placements and Credit Transfer Issues*

- Adopt legislation to ensure that youth exiting residential facilities and transitioning back to their communities receive the support they need and credit for coursework completed while in residential placement.



- Legislation has previously been introduced in Pennsylvania which designates a point of contact in school to determine appropriate classes and develop a graduation plan for youth returning to school. This legislation ensures that academic credits earned while in residential placement count towards graduation and that local credits otherwise required for graduation may be waived or that youth have access to a state-issued diploma if they meet state graduation requirements.

### ***Complaint System***

- The statute shall ***require the Department to develop a complaint system*** that is accessible to families, students, advocates, and other stakeholders to raise concerns regarding the quality of education at residential schools, inability to access to public schools, allegations of teacher misconduct or curriculum deficiencies, etc.
- Information regarding the number of complaints filed and resolution of complaints shall be made publicly available on the Department’s website.

### ***Role of Child Welfare System in Education***

- The General Assembly shall adopt legislation recognizing that the education of children and youth in the dependency and juvenile justice systems is ***a joint obligation of local and state education agencies as well as state and county children and youth agencies***. Child welfare and education agencies at both the state and local level must collaborate to identify the educational needs of students and assess the quality of education provided to students through joint information sharing and coordinated monitoring.
- As part of its licensing and monitoring of residential facilities under 55 Pa. Code 3800 Pennsylvania Department of Human Services (“DHS”) shall ***evaluate and collect limited data regarding the quality of education youth are receiving and determine whether an on-grounds school should be referred to the Department for further close monitoring and evaluation*** due to concerns regarding the quality of education provided to children and youth. Such monitoring shall include whether youth have access to public school as required, whether the on-grounds school is a safe environment for children, and whether the school is providing the requisite number of instruction hours and course offerings mandated by its the Department license and addressing the needs of students with disabilities.

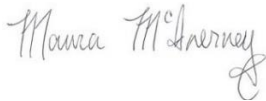
- PA DHS must update its system standards, increase its capacity for monitoring, and make data about safety more transparent, including data regarding the use of restraints in educational settings.
- ***County children and youth agencies must play a critical role in facilitating school stability and ensuring access to quality schools*** for children for whom they have legal responsibility as part of their duty to ensure the wellbeing of the children and youth placed in residential settings.

### **Conclusion**

We recognize that Task Force members may need the opportunity to discuss these proposed reforms in greater detail. To that end, we urge the Task Force to convene a meeting focused exclusively on educational issues for youth in juvenile justice residential placements which allows for youth voices to be centered, as well as families, educators, and advocates. At that meeting, ELC would welcome the opportunity to present our findings and recommendations regarding proposed revisions to current policies and procedures for implementing and monitoring educational services for youth in juvenile justice residential placements, including the involvement of the Pennsylvania Department of Education.

We appreciate this opportunity to provide additional comments regarding the important work ahead for the Task Force as it develops data-driven policy recommendations that ensure public safety, accountability, and improved outcomes for youth in the juvenile justice system. Given the critical and stabilizing nature of quality education in the lives of all youth, particularly those involved in the delinquency system, we urge the Task Force to prioritize education reform within its recommendations.

Respectfully,



Maura McInerney  
Legal Director

Education Law Center  
1800 JFK Blvd., Suite 1900-A  
Philadelphia, PA 19103  
215-346-6906 (direct dial)  
610-331-8125 (cell)  
[mmcinerney@elc-pa.org](mailto:mmcinerney@elc-pa.org)



**PHILADELPHIA**

1800 JFK Blvd., Suite 1900A  
Philadelphia, PA 19103  
T 215-238-6970  
F 215-772-3125

**PITTSBURGH**

429 Fourth Ave., Suite 702  
Pittsburgh, PA 15219  
T 412-258-2120  
F 412-535-8225

A handwritten signature in black ink that reads "Ashli D. Giles-Perkins".

Ashli Giles-Perkins  
Independence Foundation: Public Interest Law Fellow  
Education Law Center  
1800 JFK Blvd., Suite 1900-A  
Philadelphia, PA 19103  
(215) 346-6905 | (215) 772-3125 (fax)  
agiles-perkins@elc-pa.org@elc-pa.org