

## Testimony to Pennsylvania Juvenile Justice Task Force

Maura McInerney. Esq.

April 14<sup>th</sup>, 2021

My name is Maura McInerney and I am the Legal Director at the **Education Law Center** (“ELC”), a statewide non-profit legal advocacy organization dedicated to ensuring that all of Pennsylvania’s students have access to a quality public education. We advocate on behalf of students who are most underserved by our education system, including children living in poverty, children of color, children with disabilities, English Learners, students experiencing homelessness, LGBTQ youth, and those who are in the child welfare and juvenile justice systems. Our advocacy seeks to ensure that policymakers serve the educational needs children who have been marginalized by racism, poverty, and well-entrenched educational inequities. My testimony today stems from ELC’s decades of experience working with children and youth in the juvenile justice system as well as our intensive research and reporting regarding the abuse and systemic deprivation of education to children and youth in residential placements across Pennsylvania reflected in our report, *Unsafe and Uneducated*.<sup>1</sup>

It is well documented that youth in our delinquency system are among the most educationally at-risk of all student populations.<sup>2</sup> They graduate at lower rates, score lower on standardized tests, have higher rates of special education eligibility, and are more likely to repeat

---

<sup>1</sup> See *Unsafe and Uneducated: Indifference to Dangers in Pennsylvania's Residential Child Welfare Facilities* 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).

<sup>2</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).

a grade than their non-system involved peers.<sup>3</sup> In some jurisdictions in Pennsylvania, 64% of youth involved in the juvenile justice system do not graduate from high school.<sup>4</sup> This often leads to a lifetime of unemployment, under-employment, and homelessness.

Studies find 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>5</sup> Many youth complete coursework far below grade level, or are left to teach themselves through cyber programs. They are often taught in multi-grade classrooms, sometimes by uncertified or improperly certified teachers, and frequently receive below-grade-level course work. This prevents them from developing critical skills, building knowledge, and staying on track to graduate.

From detention centers where youth receive little education to self-taught credit recovery programs at Glen Mills, to below-grade level worksheets at Danville to South Mountain to Loysville, youth fail to receive the education to which they are legally entitled, are denied individualized special education services mandated by federal law, are often subjected to illegal physical restraints. They earn few credits and find themselves behind their peers when they

---

<sup>3</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>4</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.projectuturn.net/docs/PromiseWorthKeeping.pdf>.

<sup>5</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>.

return to neighborhood schools. The denial of a quality education while in the placement sets them on a trajectory to dropping out with lifelong consequences.

Youth with disabilities are at a higher risk of becoming involved in the juvenile justice system than their non-disabled peers.<sup>6</sup> Figures across the U.S. estimate the percentage at between 30 to 60 percent, with some estimates as high as 85 percent. Approximately 13 percent of juvenile offenders have 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>7</sup>

The Task Force must address the educational needs of these students as this is a core well being outcome for our youth. Youth in juvenile justice placements commonly attend inferior “on grounds” schools that are not regulated or monitored by any local or state education entity.<sup>8</sup> They are largely private academic schools that exist largely in the shadows, with little oversight and few reporting requirements.<sup>9</sup> They have wide discretion in creating educational programs and are not required to follow the same rigorous state curriculum requirements and academic standards as public schools.<sup>10</sup> While the PA Department of Education licenses or certifies on-

---

6 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>7</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>

<sup>8</sup> See *Educational Success and Truancy Prevention Report to State Roundtable* (2013) at p. 5, available at [http://www.ocfcpacourts.us/assets/upload/Resources/Documents/2013%20State%20RT%20report%20on%20Educational%20Success%20and%20Truancy%20Prevention\(9\).pdf](http://www.ocfcpacourts.us/assets/upload/Resources/Documents/2013%20State%20RT%20report%20on%20Educational%20Success%20and%20Truancy%20Prevention(9).pdf) (Of 42 counties surveyed, nearly 80% reported that children living in congregate care settings with on-site schools “sometimes” or “rarely” attend a local public school.

<sup>9</sup> See 24 P.S. § 6702, 22 Pa. Code § 51.2. Data obtained from PA Department of Education regarding type of school is available at

<http://www.edna.ed.state.pa.us/Screens/wfSearchEntityResults.aspx?AUN=&SchoolBranch=&CurrentName=&City=&HistoricalName=&IU=-1&CID=-1&CategoryIDs=18%2c&StatusIDs=1%2c2%2c>, Some on-grounds schools are licensed as approved private schools as defined by 22 Pa. Code § 171.11 or private residential rehabilitative institutions (PRRIs) as defined by 24 P.S. § 9-964.1. Approved private schools are reevaluated once every 3 years. 22 Pa Code § 171.20(b).

<sup>10</sup> See *Private Academic Schools Act*, 24 P. S. § § 6701—6721 and 22 Pa Code §51.4 (Private Academic License requirements).

ground schools in juvenile justice placements, 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> There is no review 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>

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 to ***work together to reduce the number of children referred to 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*** and to adopt legislation and amend the Pennsylvania School Code to:

- ***Require the Pennsylvania Department of Education to provide rigorous oversight and ongoing monitoring of on-grounds schools***, including annual on-site reviews which ensure curriculum alignment with state academic standards that maximizes credit transferability; appropriately credentialed teachers; effective instruction modalities; provision of individualized special education services and supports; accommodations for students with qualifying disabilities; and language instruction programs for English learners.
- ***Change the licensing process to ensure that these schools meet the same rigorous academic standards as public schools under the School Code, including alignment with state standards delineated in Chapter 4 of the Pennsylvania School Code*** and support students to stay on track to graduate college and career ready.
- ***Require data collection and transparent public information*** regarding the quality of schools by publishing “academic performance” reports regarding these schools.

---

<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>.

- ***Impose corrective action, revocation of a license, imposition of sanctions*** as warranted and award of compensatory education for students deprived of a free, appropriate, public education.

As part of its licensing and monitoring of residential facilities under 55 Pa. Code 3800 Pennsylvania Department of Human Services (“DHS”) should also be required to ***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.

In sum, we urge The Task Force to prioritize education as it develops data-driven policy recommendations to ensure safety and well being of youth, including increasing accountability to improve educational outcomes for youth in the juvenile justice system.

Given the critical importance of a quality education in altering the life trajectory of all youth, we urge the Task Force to prioritize education reforms within its recommendations. Thank you.