



Youth Ombudsman Office Is Needed
To Protect the Welfare and Educational Rights of Youth

Education Law Center Testimony to Philadelphia City Council

April 8, 2021

Thank you for this opportunity to speak today. 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 dependency and delinquency system, particularly those in residential placements. This includes individual representation, impact litigation, and intensive research and reporting regarding the abuse and systemic deprivation of education to children and youth in residential placements in Pennsylvania in our publication *Unsafe and Uneducated*. Based on these experiences as well as my role as an active member of the Philadelphia’s Youth Residential Placement Task Force, the need for a *Youth Ombudsman Office* could not be more clear.

As reflected in our publication, *Unsafe and Uneducated*¹ as well as in numerous newspaper articles and reports, Philadelphia’s children in residential facilities have experienced deep harm, threats to their safety and well-being, and have been deprived of their right to a quality education. From the death, rapes, and abuse of children at Wordsworth,² to the culture of physical abuse, psychological harm, and lack of education at Glen Mills,³ to the horrific abuse children suffered at South Mountain⁴ and other state-run and private facilities we cannot continue to sit by and allow our youth to suffer. Our state and local oversight has failed. Time and again no one listened to youth. No one has believed them until it was too late for too many children.

This is not anecdotal.

¹ In December 2018, ELC and Children’s Rights published a report entitled *Unsafe and Uneducated: Indifference to Dangers in Pennsylvania’s Residential Child Welfare Facilities*. The report exposed how youth in these facilities were subject to frequent abuse and mistreatment, as well as significantly inferior educational services. It highlighted that less than half of youth in the 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. The report also called for widespread reform of state-level and local oversight. See the full report at https://www.elc-pa.org/wp-content/uploads/2018/12/2018_Pennsylvania-Residential-Facilities_Childrens-Rights_Education-Law-Center.pdf.

² An investigation conducted by the Inquirer and Daily News found that in the last decade, at least 49 sex crimes have been reported at Wordsworth, including 12 rapes and 23 accounts of sexual abuse. See *Death, rapes, and broken bones at Philly’s only residential treatment center for troubled youth*, The Philadelphia Inquirer. <https://www.inquirer.com/philly/news/pennsylvania/philadelphia/Death-rape-Philadelphia-Wordsworth-residential-treatment-center-troubled-youth.html>

³ In 2019, The Inquirer investigated the experiences of 21 former and current students and counselors which showed that boys would be physically abused as punishment for breaking school rules. See *Beaten, then silenced*, The Philadelphia Inquirer. <https://www.inquirer.com/crime/a/glen-mills-schools-pa-abuse-juvenile-investigation-20190220.html>

⁴ In 2020, Disability Rights PA filed a suit on behalf of 11 youth who say they were abused in the three state run treatment centers. See *Inside the alleged abuse of at-risk youth in Pa. treatment centers*, Public Opinion Online. <https://www.publicopiniononline.com/in-depth/news/local/2020/04/30/pennsylvania-youth-treatment-centers-have-been-accused-abusing-kids-south-mountain/4084874002/>

**Children are maltreated at these residential facilities.
Incidents from May 2010 – May 2018:**

CHILDREN WERE
PHYSICALLY MALTREATED
156 TIMES
.....
114 TIMES
BY STAFF
AND
42 TIMES
BY OTHER CHILDREN


THERE WERE
43
SEPARATE INCIDENTS OF
**VERBAL
MALTREATMENT**
BY STAFF

CHILDREN WERE EXPOSED
TO INAPPROPRIATE
SEXUAL CONTACT
73 TIMES
.....
39 TIMES
BY STAFF
AND
34 TIMES
BY OTHER CHILDREN



OF REVIEWED LEGAL ENTITIES HAD **REPEAT VIOLATIONS**
FOR PHYSICAL OR SEXUAL MALTREATMENT OF CHILDREN (BY STAFF OR OTHER CHILDREN)

**Children are subjected to inappropriate use of restraints at these
residential facilities:**

- Although restraints should only be administered by trained staff and as a last resort utilized after all other de-escalation techniques have been employed,³⁹ there were 92 incidents of inappropriate restraints. This study defines “inappropriate use of restraints” as any restraint that was: administered incorrectly; administered in a punitive manner, for the convenience of staff, or as a substitution for treatment; administered before all other de-escalation and less intrusive techniques were attempted; administered without allowing the child resident to adjust every ten minutes;⁴⁰ or continued even after the child regained self-control.
- Although restraints should never harm the child, there were 28 incidents of restraint that resulted in a documented injury to the child.

As reflected in this slide, research findings in our 2018 report disclosed that based on publicly available information, incidents reported to the state DHS alone, between May 2010-May 2018, children in residential settings were physically maltreated 156 times, exposed to inappropriate sexual contact 73 times, and verbally maltreated 43 times. In addition, there were 92 incidents of inappropriate restraints, 28 of which resulted in documented injuries to children. ***Significantly, 44% of reviewed legal entities had repeat violations for physical or sexual maltreatment of children.***

These statistics don't capture the trauma and emotional abuse that children have experienced while in residential placements like Glen Mills, which operated through a culture of daily fear of physical abuse and psychological harm. These statistics don't address the fact that virtually all Philadelphia youth in residential placements live at or below the poverty line, have experienced trauma, and that 75% are Black.⁵ Our Black and Brown youth have been subjected to individual, systemic, and structural racism through placement and treatment in residential settings. Creating and funding an independent Youth Ombudsman Office that will receive and investigate concerns from youth and families about their safety, welfare, health, and education is desperately needed. It is a critical first step towards safety, freedom from harm, and securing needed and prompt supports for Philadelphia's youth in residential placements. We know that attempts at state oversight have been unsuccessful despite decades of advocacy. We need a local Ombudsman Office to ensure that Philadelphia children and youth -- who will return to our communities, homes, and schools -- are free from harm, removed from harm, and receive the supports and interventions they need while in residential placement and upon returning to our community. Philadelphia DHS and state DHS have set up complaint processes, but these are not viable options for youth. They are difficult to find, hard to navigate, and most importantly, located within the same agencies we are seeking to hold accountable. Youth need an independent office they can trust where their voices will be heard and believed. This was an important recommendation of the Philadelphia Youth Residential Placement Task Force. *See* Task Force Report at p. 18, available at <https://www.documentcloud.org/documents/6561254-FINAL-YRPTF-Task-Force-Report-11-22-19.html>.

⁵ Youth Residential Placement Task Force, *Report and Recommendations*, 7, https://www.phila.gov/hhs/PDF/FINAL%20YRPTF%20report_web_2019.pdf.

Children in residential placements are not only unsafe but fail to receive the significant educational services to which they are legally entitled and desperately need. Many youth in residential placements attend inferior “on grounds schools” and are denied their legal right to attend local public schools where the institution is located.⁶ These private academic schools exist largely in the shadows, with little oversight by any local or state education agency.⁷ Pursuant to state policy, these programs are subject to on-site cyclical monitoring only once every six years and then only with regard to students with disabilities. 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.⁸

Children at on-grounds schools receive an education that is frequently inferior and actually undermines their ability to graduate from high school. Many are placed in an inappropriate grade or program. 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. Fifty-two percent of child welfare professionals report that the curriculum at on-grounds schools is far below grade level, limited in instruction hours, relies heavily on worksheets, and fails to advance basic skills.

⁶ 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.

⁷ 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).

⁸ See *Private Academic Schools Act*, 24 P. S. § 6701—6721 and 22 Pa Code §51.4 (Private Academic License requirements).



On-grounds schools often lack essential resources, staff and services required to effectively educate the children they purport to serve.⁹ In some cases, youth spend their days engaging exclusively in on-line credit programs with minimal or no live instruction. Many parents or education decision makers are not a part of the process. And many judges court order youth to attend on-grounds schools in a misguided attempt to solve a child’s truancy problem. But these children only find themselves further behind their peers upon returning to their neighborhood schools and then often drop out of school all together.

And studies show that system-involved children are 2.5 to 3.5 times more likely to receive special education services than their non-system involved peers.¹⁰ Students with disabilities are more

⁹ *Id.*

¹⁰ *National Fact Sheet on the Educational Outcomes of Children in Foster Care, Id.* at p.2 (between 35.6% and 47.3% of children in foster care receive special education services) at <http://www.fostercareandeducation.org/>. In Philadelphia, 1 in 4 students ever involved with the child welfare and/or juvenile justice system received special education services. This rate is 64% higher than students with no history of involvement. *Supporting the Needs of Students Involved with the Child Welfare and Juvenile Justice System in the School District of Philadelphia* at

likely to be placed in residential facilities and are particularly harmed when educated online or through a one-size-fits-all on-grounds school. They are often denied the free, appropriate, public education to which they are legally entitled, denied the opportunity to be educated with their non-disabled peers and children with disabilities are more likely to be subjected to abuse and harm while in placement.

A Youth Ombudsman will ensure that youth and families have the ability to raise issues relating to safety, education and welfare. This mechanism will take the concerns that we hear about too late, out of the shadows and into the light so that we can intervene promptly. We need to hear from the youth and families who are directly impacted. I urge City Council to devote the resources necessary to end the isolation of our children in residential placements and provide them with a Youth Ombudsman Office that will give them the voice they have been denied for too long. Thank you.