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Presented Before

The New York City Council Committee on Education

Oversight Hearing on Legislation related to Students in the Foster System

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My name is Hannah Mercuris, and I am a Senior Attorney in the Education Practice at Brooklyn Defender Services (BDS). BDS is a public defense office, representing approximately 22,000 people each year who are accused of a crime, facing the removal of their children, or at risk of deportation. We thank the Committee on Education and Chair Joseph for the opportunity to address the Council about the educational challenges facing children who are separated from their families by the foster system.

For over 25 years, BDS has worked, in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff, all of whom are experts in their respective fields. BDS' Family Defense Practice is the primary provider of legal representation to parents facing the removal of their children to the foster system in Kings County Family Court. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with the educational needs of our clients or their children, housing and benefits advocacy, and immigration advice and representation. BDS' Education Practice delivers legal representation and informal advocacy to our school-age clients and to parents of children in New York City schools. Many of the parents we serve are facing the removal of their children in family court. As an interdisciplinary legal and social work team, we work to ensure that our clients can remain active in their children's education, even when those children are removed from their care, and that their children receive the educational support to which they are entitled.

Proposed Legislation

BDS supports Intro 857, which would require the Department of Education (DOE) to report on education metrics for students in the foster system. We are encouraged that the City Council is asking for more data on students in the foster system. In our role as educational advocates for families directly impacted by this system, Brooklyn Defender Services sees the many ways that students in the foster system become disconnected from their school communities at a time when their lives have been disrupted by family separation and may be experiencing incredible distress as a result. We work with parents who fight to ensure that their children continue to make educational progress and retain the relationships they have developed in their because they know how important these connections are during their time in the foster system.

Students in the foster system become disconnected from school in many significant ways: their parents are often excluded from their educational lives, they are excluded from their own schools when they experience behavioral challenges that lead to suspensions, and they are often unable to attend school in their communities through lack of transportation and inappropriate school transfers. While we appreciate the introduction of this legislation, we encourage the City Council to take additional action to ensure that adequate services are provided to students to prevent foster system involvement, that students and their families receive the appropriate services and communication during family separation, and that supports put in place when a child is in a foster placement remain, if appropriate, when a child is returned home.

Navigating DOE during foster placement

The DOE, Administration for Children's Services (ACS), and foster agencies often exclude parents from their children's educational lives when families are separated by the foster system. This often happens because schools wrongly believe that the presence of ACS or a foster agency means that parents are no longer permitted to remain involved in their children's educations. Parents are often incorrectly told DOE staff that they may not speak with school staff or teachers, that they may not participate in school meetings and conferences, and that they may not receive their children's educational records. ACS and foster agencies often fail to pass along information that they receive from schools to parents and rarely encourage schools to reach out to parents directly. Schools then communicate primarily or solely with the foster parent. Our office must regularly call school administrators and explain that parents have the right to be informed and make decisions about their children's educations. This includes directing DOE staff to their own website, which states parents' rights when their children have been removed to the foster system. With our community partners, BDS has provided training to DOE parent coordinators and other staff to ensure that school officials are aware of parents' rights when ACS is involved.

The lapse of communication between schools and parents is particularly harmful for the more than 40% of children in the foster system who are students with disabilities.¹ For those students, their parents' participation, contributions, and consent to special education services are essential for their educational progress. This is not just because the vast majority of parents remain their children's educational decision-makers when their children are in foster placements, but also

¹ Advocates for Children, "Building on Potential: Next Steps to Improve Educational Outcomes for Students in Foster Care," at 3 (January 2023), *available at* https://www.advocatesforchildren.org/sites/default/files/library/building_on_potential.pdf?pt=1.

because children change agency case planners and foster placements frequently, meaning that often, the only person with knowledge of their entire educational history is their parent.² Parents' deep understanding of their children is essential to developing appropriate special education programs. Additionally, the strategies that service providers use to support and guide children with disabilities are often most effective when reinforced at home, and the majority of children return home from the foster system.³ When children return home, their parents' knowledge of what happened with their education while they were separated is also critical to their educational success going forward.

Students in the foster system also become disconnected from their school communities because those students simply are not in school, whether it's due to suspensions from school, lack of transportation, or school changes that undermine their right to school stability.

Students in the foster system are disproportionately suspended and excluded from their classrooms, leading to disengagement, lost instructional time, and erosion of important school-based relationships.⁴ Many students experience behavioral challenges in school because of or exacerbated by the trauma of being separated from their families and communities. Once suspended, students can become further disengaged from school, as they often fall behind academically. Exclusionary discipline is never academically beneficial for students, and students in the foster system already have lower academic achievement than their peers.⁵

Though policy changes have been made to ensure school stability,⁶ children in the foster system still change schools frequently because their foster placement is changed, because of distance, lack of transportation, or other logistical needs related to their placement in the foster system. Unnecessary school changes can lead to students refusing to attend or skipping school, and it can also lead to significant educational setbacks, as supportive teachers or service providers are no longer available.

² Nearly one in five children in the foster system ends up changing schools during a single school year, sometimes more than once. Advocates for Children and The Legal Aid Society, "Building a Network of Support: The Case for a DOE Office for Students in Foster Care," at 4 (May 2021), available at

https://www.advocatesforchildren.org/sites/default/files/library/foster_care_office_report_52021.pdf?pt=1.

³ Administration for Children's Service, "FY 2021 Foster Care Strategic Blueprint Status Report," at 7 (July 2020-June 2021), available at, <https://www.nyc.gov/assets/acs/pdf/data-analysis/2021/FCStrategicBlueprintFY2021.pdf>.

⁴ Advocates for Children, "Building on Potential: Next Steps to Improve Educational Outcomes for Students in Foster Care," at 9-10 (January 2023), available at

https://www.advocatesforchildren.org/sites/default/files/library/building_on_potential.pdf?pt=1.

⁵ In 2019, only one-quarter of students in the foster system graduated on time, as opposed to three-quarters of all New York City high school students. Center for Innovation Through Data Intelligence, "Education Outcomes of Youth in Foster Care," at 4 (May, 2022), available at,

https://www.nyc.gov/assets/cidi/downloads/pdfs/Education_Outcomes_May19_2022.pdf. In 2020 and 2021, less than half of students who had been in the foster system during high school graduated and more than 20% dropped out altogether.

In 2020 and 2021, well under half of students who spent time in foster care during high school graduated, while more than 20% dropped out. Advocates for Children, "Building on Potential: Next Steps to Improve Educational Outcomes for Students in Foster Care," at 15 (January 2023), available at

https://www.advocatesforchildren.org/sites/default/files/library/building_on_potential.pdf?pt=1.

⁶ Schools must allow a child to remain in their school of origin when it is in their best interest, even when they move outside the school district, and provide transportation to school of origin. 20 U.S.C. § 6312(c)(5)(B).

This Committee has previously heard how students in the foster system miss school because of delays in providing transportation.⁷ Even when school stability for a student in foster care is maintained, and even when requests for changes to bus routes are requested correctly and timely, these requests often take an average of 30 days to process. ACS and foster agencies also routinely deny requests to provide transportation or chaperones while DOE transportation is pending.

Recent Example: Child with Autism in Foster System Denied Access to Educational Services

Just last week a parent I am working with requested that ACS provide transportation so that her young son could continue to attend his specialized program for students with autism in Brooklyn, while living with his maternal grandmother, a kinship foster resource, in the Bronx. ACS refused to provide transportation for our client's son to attend school and said that they were "looking into remote learning," an unrealistic and inappropriate recommendation with his educational needs. Lack of transportation very often leads to students switching schools entirely, which is another pervasive problem that we see when students enter the foster system. Whether the DOE or ACS is responsible, timely, reliable, and direct transportation for students in the foster system must be guaranteed.

Because of these interconnected issues of school disconnection, more than half of students in the foster system are chronically absent from school,⁸ but parents are expected to fix these challenges the moment their children return to their care. We cannot hold foster agencies to a different standard than parents when it comes to school attendance. Students in the foster system also often return home academically behind and without a familiar or supportive school community to help them regain the skills and instruction that they have lost. Parents are expected to jump in to fix these challenges with few resources or support, while simultaneously working to heal and repair their family from the time they were separated.

Conclusion

We are grateful to the Council for your attention to this critical issue. We hope that this data gathered by this bill will provide critical information about the best ways for our City to support students and their parents as they navigate the foster system *and* after they are reunited. Thank you for the opportunity to testify today. If you have any questions, please reach out to Anna Arkin-Gallagher, Education Policy Counsel, at aarkingallagher@bds.org.

⁷ See our previous testimony on this topic online here, [/bds.org/assets/files/School-Transportation-Written-Testimony-11.21.22.cleaned.pdf](https://bds.org/assets/files/School-Transportation-Written-Testimony-11.21.22.cleaned.pdf)

⁸ Advocates for Children, "Building on Potential: Next Steps to Improve Educational Outcomes for Students in Foster Care," at 8 (January 2023), *available at* https://www.advocatesforchildren.org/sites/default/files/library/building_on_potential.pdf?pt=1.