

**Statement of the Education Law Center**  
**PA Senate Education Committee Hearing on Education During the COVID-19 Pandemic**  
March 3, 2021

We provide this written statement on behalf of the Education Law Center – PA (ELC), a nonprofit legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to a quality public education. We advocate on behalf of underserved student populations who have been marginalized by racism, poverty, and/or unmet academic needs that further widen educational inequities.

While many districts are focusing on how to reopen schools safely, we cannot ignore the impact of a year of remote instruction for many of our students. And while schools aim to reopen this year, the reality for many of our students is that they remain in remote learning this year—often without opportunity to meaningfully engage.

The current challenges of remote learning models employed by school districts around the state have acutely and disproportionately impacted the learning of Black and Brown children, children with disabilities, English learners, children experiencing homelessness, and other historically underserved student populations. The on-going impact of COVID-19 and the shift to remote learning has thrust into the spotlight the longstanding inequities that students in underfunded districts face—including the impact of the digital divide. The COVID-19 crisis has illustrated the massive resource gap between school districts in the state. For the past year, we have seen many districts struggling to provide adequate remote instruction, and we are now seeing how low-wealth districts struggle to reopen safely, particularly with aging infrastructure that does not readily allow for the ventilation needed for safe operation.

Today’s testimony aims to illustrate some of the specific challenges and outline some solutions the General Assembly can take to address these challenges, including:

- **Allocating increased dollars to ensure equitable access for remote learning, hybrid instruction, safe reopening in person, and needed remediation for all students;**
- **Allocating increased dollars to ensure greater access to school counseling and other social and emotional supports;**
- **Ensuring that schools have flexible tools to respond to remote learning access barriers and are not wrongly penalizing parents and students with truancy fines and consequences;**
- **Supporting legislation that extends eligibility for school attendance to students with disabilities who reached age 21 during the 2020-2021 school year;**
- **Ensuring that English learners receive compensatory education services to address lack of access to remote learning.**

## **Fair Funding**

COVID-19 has highlighted the inadequate and inequitable funding of public schools. Because 428 of the 500 school districts are not receiving their adequate share of funding from the state, school districts are forced to rely on local tax revenue in an attempt to make up the difference. That means that poor districts are much worse off. Students of color are concentrated in deeply underfunded districts: 50% of the Commonwealth's Black students and 40% of Latinx students attend school in the poorest one-fifth of districts. They are disproportionately impacted by Pennsylvania's irrational and inequitable school funding system.

We urge the Legislature to address fair funding in this year's budget. Governor Wolf's proposal is a much-needed investment that school district administrators, educators, and parents have been pleading for from the General Assembly for years. While the federal COVID-19-related dollars are much-needed, they are a one-time infusion that should not be used to fill structural budget gaps and will not solve our longstanding, multi-billion dollar underfunding of Pennsylvania's schools. The upcoming state budget negotiations should focus on equity and adequacy in the basic education and special education funding of our schools and ensure that the state's most underfunded districts aren't imperiled by a huge funding cliff when the one-time federal funds they may receive are gone. In 2011, Pennsylvanians saw the cutbacks in essential services, the layoffs, and the catastrophic consequences for students and schools when the state did nothing to fill in where districts' structural budget gaps had been papered over with temporary, short-term federal funds.

The issues outlined below are clearly exacerbated by the funding inequities across the Commonwealth.

## **Digital Divide**

Given how many of our students are attending school remotely or hybrid statewide, we are acutely aware of the digital divide that exacerbates inequities. The digital divide is multifaceted and complex. While it certainly includes unequal access to computers for remote learning and unequal access to internet, it also encompasses information gaps around how to use technology and educational platforms; unequal technical support; the absence of caregivers to help support learning due to obligations outside of the home environment; the failure to provide needed differentiated support for limited English proficient parents, English learners, and students with disabilities; differential connections to teachers due to overcrowded classes as well as increased housing instability, social-emotional stress, and health issues experienced by students living in poverty.

Nationally, reports by both the Education Week Research Center and RAND reflect that schools serving students in poverty and schools that serve majority Black and Brown students are more likely to be provided with inferior remote learning opportunities, rather than in-person classes, and are less likely to have access to a digital device or the internet, and are more likely to fall

behind during this time due to these barriers.<sup>1</sup> A June 2020 study concluded that while the average student could fall seven months behind academically, students who are Black and Latinx were likely to experience even greater learning losses due to unequal access to high-quality digital learning opportunities, equivalent to 10 months for Black students and 9 months for Latinx children.<sup>2</sup> This gap is expected to widen as the pandemic continues.

It should be no surprise to find these kinds of inequities in Pennsylvania because Black and Latinx students are concentrated in the state's most profoundly underfunded school districts.

Despite nearly a year of remote instruction, there continue to be vast numbers of children who are left out of learning. Moreover, many children have new needs that stem from trauma related to COVID-19, such as death, job loss, food insecurity, social isolation, and housing loss – issues that our current remote learning plans have not been designed to address.

Despite these well-recognized, novel challenges impacting consistent student access to remote learning, schools face the same requirements for responses to attendance barriers that compel referrals to child welfare agencies and truancy courts. Families face fines and other consequences for attendance barriers that are far outside their control, including lack of stable, high-speed internet, failures of dysfunctional technology, inattention due to disability, or lack of adult supervision due to essential work demands outside the home.

ELC continues to hear from families whose students cannot participate in on-line learning due to lack of high-speed internet and hot spots. This is a common problem for students who are experiencing homelessness, particularly those living in shelters and students who are doubled up living with others. We are aware that in some family shelters, five children share one hot spot. This is an untenable situation and leads many children to be pushed out of learning entirely.

In addition, too many of our English learners (ELs) are not even getting through the virtual schoolhouse gate due to unique but common access barriers – from logging on to navigating digital portals, to meaningfully engaging with the curriculum and receiving effective language instruction in a remote environment. The most common barrier for ELs remains a lack of coordinated and consistent communication from school districts. When districts fail to provide accessible communications about how to overcome technology barriers, ELs may be unable to log onto remote learning or navigate English-only digital platforms.

Furthermore, school districts and families widely recognize that the majority of students with disabilities cannot be appropriately served through remote learning models. Even as school districts have prioritized students with the most complex needs for return to in-person instruction, many students with disabilities continue virtual instruction due to health and safety concerns stemming from their disabilities. As a state, we must acknowledge that vast numbers of students are not receiving the special education services and supports to which they are legally entitled, and we must systematically plan to remediate these significant failures that will otherwise have long term consequences. For those students with disabilities turning 21, the age

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<sup>1</sup> *In-Person Learning Expands, Student Absences Up, Teachers Work Longer, Survey Shows*, Oct. 15, 2020, available at <https://www.edweek.org/leadership/in-person-learning-expands-student-absences-up-teachers-work-longer-survey-shows/2020/10>.

<sup>2</sup> REL Mid-Atlantic, *Considerations for Reopening Pennsylvania Schools*, 9 (June 2020), available at <https://ies.ed.gov/ncee/edlabs/regions/midatlantic/pdf/ReopeningPASchools.pdf>.

when entitlement to special education ends, we must extend the age of eligibility to school programs.

Against this backdrop where remote learning continues to be the reality for many children due to prioritized community safety, we must work towards better solutions for Pennsylvania's students and families while students physically remain out of school. Those solutions must address the ways in which pre-existing inequities in state funding and district resources have contributed to disparities in student resources and educational opportunities and exacerbated the crisis for many school districts.

Based on the information we have gathered from stakeholders around the Commonwealth, we urge the legislature to prioritize the following goals to address the significant educational needs of underserved students during this difficult time:

- **Increase funding to ensure equitable access for remote learning, hybrid instruction, safe return to schools, and remediation for all students.** We must ensure that schools have the financial resources necessary to provide all students consistent access to required materials, including computers, internet, and other technology, for remote and hybrid instruction, as well as access to remedial educational services to bridge the learning chasm that has widened during this year of remote learning. In addition, funding should be targeted to underfunded school districts so that they can provide opportunities during the summer for extended or remediated learning to address losses that occurred during remote learning.
- **Ensure that schools have flexible tools to respond to remote learning access barriers and that parents and students are not wrongly penalized with truancy fines and consequences.** While we know that education access and delivery has changed dramatically, the requirements for responding to attendance challenges have not. Legislation and guidance are needed to provide schools with the flexibility to respond to remote learning access barriers with school- and community-based interventions rather than referrals to magistrate courts and child welfare agencies, which are disproportionately impacting students of color and those in low-wealth school districts.
- **Support legislation that extends eligibility for school to students with disabilities who reached age 21 during the 2020-2021 school year.** State law limits the ability of schools to continue providing education and related services to students beyond the semester in which they turn 21. Given that students with disabilities who continue to be in school until age 21 are students with the most complex needs whose needs are least likely to be met through remote learning, families should have the option to allow these youth to continue one additional year in school. We urge members to support forthcoming legislation to allow schools to provide an additional year of school attendance for students with disabilities who have reached age 21 and would otherwise “age out” of special education.
- **Ensure that English learners receive compensatory education services to address lack of access to remote learning.** Due to the magnitude and gravity of access barriers preventing English learners from receiving their legally entitled educational services, we must ensure that schools develop plans for compensatory education to address their learning losses and lack of appropriate English instruction, and support them to both access the curriculum upon returning and stay on track to graduate in light of their significant losses. Similar to the COVID-19 Compensatory Services recommended by the Pennsylvania Department of Education for students with disabilities, schools must target additional educational services to

English learners to remedy their losses during remote learning and remove barriers to students' equal participation.

- **Allocate funding to provide greater access to school counseling and other social and emotional supports.** It is now well documented that the devastation that COVID-19 has caused, including death, job loss, food insecurity, increased mental health concerns, and housing loss for many households has impacted student health and student performance. This is particularly true within the Black community, which has experienced disproportionately high rates of COVID-19 deaths, as well as for children in the child welfare, juvenile justice, and mental health systems, many of whom have remained in non-educational placements and/or lack an involved caregiver to support their access to instruction. Schools must be given the resources to provide short- and long-term support for students who have been particularly hard hit by the COVID-19 crisis.

State education funding through both the basic education and special education funding formulas is critical to meeting the needs of our students and schools – needs that COVID-19 has exacerbated, further entrenching educational inequities across the state. The forthcoming federal dollars are not a magic bullet that can resolve all the funding needs of school districts nor the systemic inequities built into our current system, particularly deep inequities caused by structural and systemic racism. Districts continue to face rising costs for special education, charter schools, and pensions, as well as the cumulative impact of the state's failure to provide sufficient funding increases that keep pace with inflation.

We urge the General Assembly to prioritize equity in access to learning, while ensuring safety for all children in Pennsylvania.

Respectfully submitted,

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