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**Subject:** Council Authority under the School Reform Act

**Date:** July 19, 2021 at 6:43 PM

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## C4DC – Coalition for DC Public Schools and Communities

<http://www.c4dcpublicschools.org/>

Dear Council Chair Mendelson,

We appreciate your continued support for stabilization of the DCPS school budgets and your understanding that schools cannot do their jobs without predictability. Education is built on relationships; known and valued teachers and administrators are not easily replaceable.

We are deeply concerned that the commentary in the [COW July 1 BSA Recommendations](#) Title IV-A on page 135 and 136 misconstrues the law on the subject of the District's authority to make equitable changes in the School Reform Act (SRA), including funding. Charter advocates brought a lawsuit in federal court claiming the DC Council did not have authority to make any changes in the SRA or funding formulas, but their arguments were rejected by the federal District Court. On appeal to the DC Circuit Court of Appeals, the federal appellate court dismissed the case for lack of jurisdiction, stating that there was no federal issue because the SRA is a local DC law that should be construed by DC local courts. Significantly, the charter advocates never re-filed their case in DC Superior Court.

In the federal court litigation, the Council rightly supported dismissal making the compelling case for District authority. See [here](#). Of course, the Office of the Attorney General also strenuously opposed the claimed limitations on District authority. The Council clearly has such authority and has modified the law and made equitable funding adjustments in the SRA dozens of times since its enactment, often at the request of charter advocates.

Indeed, the Council taking the position even in this Committee commentary that it may not deviate or modify the SRA represents a breathtaking, unnecessary concession of Home Rule rights even as we passionately pursue Statehood.

At the heart of this is the idea that all operational funding of DCPS and charter schools must flow through the UPSFF.

*While the Committee supported the Executive's eventual move to make school budgets whole, the Committee is concerned about the Executive potentially*

*providing future stabilization or other funds to DCPS schools outside of the UPSFF. By law, the District is required to provide equivalent funding through the UPSFF to both DCPS and the charter sector; and if operating funds are provided outside of the UPSFF, the Executive is required to fund and provide funding to the charter sector. These same funds were provided to the charter sector. Thus, the Committee recommends limiting the stabilization authorization to provide stabilization funding outside the UPSFF to Fiscal Year 2022 to ensure that the School Reform Act is not violated.*

But that has never actually been the case, nor is it required. Both DCPS and the charter sector receive funds outside of the UPSFF for operations. This has been the case for many years, including in the current budget. Meanwhile, far from being victims of the system, the charter sector has accumulated net assets of over \$500 million \$350 million of which is held as cash. See Table 1 [here](#). Those net assets grow by \$40 million to \$50 million a year.

The COW's commentary on Title IV-A for FY 2022 is wrong on the law, unnecessary and reflects a dangerous concession of Home Rule rights. Striking it need not change anything about the allocation of funds in the proposed budget. It should be struck.

To be sure, the questions about the law here and the best ways to ensure that all our schools, DCPS and charters, are fully and fairly funded are challenging. As we emerge from the pandemic crisis, it is time to undertake a serious review of our approach. We look forward to working with you on just that issue in the coming year. In the meantime, please do not suggest in the BSA that the citizens of the District of Columbia cannot control how \$2 billion of their tax dollars are spent or the approaches taken to the quintessentially local issue of how their children are educated.

Sincerely,

[Ward 2 Education Council \(W2EC\)](#)

[Ward 4 Education Alliance](#)

Ward 5 Education Equity Committee

[Ward 6 Public Schools Parent Organization \(W6PSPO\)](#)

Ward 8 Education Council

[21st Century School Fund](#)

[DC Fiscal Policy Institute](#)

[Decoding Dyslexia DC](#)

[EmpowerEd](#)

[Senior High Alliance of Parents Principals and Educators \(S.H.A.P.P.E.\)](#)

[Teaching for Change](#)

[Washington Lawyers Committee for Civil Rights and Urban Affairs](#)

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