

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Deputy Mayor for Education



Public Hearing on Bill 24-80, “DC State Education Agency Independence Amendment Act of 2021” and Bill 24-101, “Office of the State Superintendent of Education Independence Amendment Act of 2021”

Testimony of
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Before the
Committee of the Whole
The Honorable Phil Mendelson, Chairman

Virtual Hearing
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004
October 26, 2021
11:00 AM

Introduction

Good afternoon, Chairman Mendelson, Councilmembers, staff, and members of the community. I am Paul Kihn, Deputy Mayor for Education (DME). Thank you for the opportunity to testify before you today on two bills that would significantly shift the governance of the Office of the State Superintendent of Education (OSSE), B24-80, “DC State Education Agency Independence Amendment Act of 2021” and B24-101, “Office of the State Superintendent of Education Independence Amendment Act of 2021.”

The District of Columbia has a unique governance structure that reflects its dual status as a city and a state. In education, the District is divided into 69 local educational agencies (LEAs) encompassing 249 schools that serve over 93,000 students. We afford our LEAs autonomy to make school-level and day-to-day decisions on curriculum, scheduling, and staffing, as we believe these decisions should be made in close partnership with students and families. However, there are important District-wide functions and policies governing all LEAs and schools in the District. Many of these functions are quite common across states (as is the structure of a State Education Agency under the Executive), for example, the administration of the statewide assessment, the implementation of statewide accountability systems, data reporting, and teacher licensure, among others. These functions are conducted by OSSE, the District’s state education agency. However, many of OSSE’s roles are unique to D.C. and respond to specific needs of our jurisdiction, such as administering the school lottery, My School DC; providing bus services for students with disabilities who require transportation accommodations; regulating childcare facilities; and responding to local needs around early literacy, restorative justice, and community schools. OSSE has a significant footprint in the education sector, with an approved budget of over \$360 million¹ and a staff of almost 2,000 dedicated public servants,² and it does its work well.

Over the past several years, OSSE has been a stable and positive force in our education system, and its improvements have been noticed in our community and by this Council. We believe that the important value this agency brings to our schools is supported by the existing governance structure authorized by this Council in 2007 with the passage of the District of Columbia Public Education Reform Act of 2007 (PERAA). That law prudently positioned OSSE within a unified education cluster under a streamlined governance structure led by the Mayor. As Deputy Mayor for Education, I support and guide education agencies including OSSE. Further, as an executive office, OSSE is supported by the Office of the City Administrator and works in partnership with a team of strong sister agencies.

OSSE’s governance structure is important to its effectiveness. **First, the current governance structure ensures alignment.** The existing governance structure facilitates streamlined decision-making and alignment of priorities and resources towards a District-wide vision for education. This alignment fosters problem-solving and allows OSSE privileged access to other Executive partners. This alignment has been indispensable during the pandemic. While all governments

¹ Note that there are three budget chapters for OSSE: OSSE-Main, Non-Public Tuition, and OSSE-DOT.

² Note that this includes staff for OSSE-Main, Non-Public Tuition, and OSSE-DOT. The vast majority of staff are bus drivers and attendants in OSSE-DOT.

have been challenged by the public health emergency, DC has responded decisively and taken bold action to keep residents safe. The pandemic demanded collaborative and nimble action; agencies across local and federal government have had to work together to respond to the crisis. OSSE has worked closely with DC Health to translate health guidance and provide supports to implement critical public health measures in our schools like testing, contact tracing, and notification. This alignment contrasts with the challenges of coordinating between DC Health and independent schools on COVID-19 safety protocols. Moreover, OSSE has distributed federal funding to support our COVID-19 response and recovery efforts. This level of coordination, response and relief would not have been possible without OSSE's current governance structure.

Second, the current governance structure ensures accountability. Accountability for the agency's performance rests with the Mayor, in tandem with oversight responsibilities conducted by this Council. Under the current governance structure, little that OSSE does goes unexamined. OSSE is accountable to the Executive and Legislative branches of government and, most importantly, to our constituents. OSSE participates routinely in oversight hearings and roundtables, with 15 and counting in this Council Period alone. OSSE testifies in many hearings on legislation where public witnesses share their perspectives and make their voices heard. The Superintendent meets with the Chairman and Councilmembers at their request and prioritizes timely responses to written inquiries from legislative staff. The team takes great care to prepare for Council hearings to ensure Councilmembers and residents have the most comprehensive answers to their questions and concerns. This often includes supporting materials for the public record. For example, OSSE submitted nearly 300 pages of narrative responses with 22 attachments for the most recent Performance Oversight hearing. OSSE also produces and submits nearly a dozen statutorily mandated reports to Council annually. OSSE utilizes considerable resources to be responsive to oversight requests, and it leads to better governance. We have a system of checks and balances that is working.

Third, the agency is accessible under the current governance structure. In addition to its work with the Council, OSSE engages the State Board of Education on a routine basis. This includes presenting at monthly working sessions when there is business, public remarks from the Superintendent at monthly public sessions, standing monthly meetings between the Superintendent and SBOE leadership, and availability of staff to respond to constituent needs. OSSE has also conducted forums and engagement on important issues like the statewide ESSA plan and the DC School Report Card. OSSE fields constituent requests on a daily basis and provides direct assistance on important programs like DCTAG, the ReEngagement Center, and OSSE-DOT.

Points of Pride

Our current governance structure and the proposals contained in the bills we are debating today were contemplated fully in 2007 through the Public Education Reform Amendment Act (PERAA). When the Council passed legislation authorizing our existing governance structure for public education in the District of Columbia, Councilmembers and community members recognized that our education system was in a "state of emergency" due to poor performance and mismanagement. PERAA was passed by the DC Council in order to bring greater coordination,

accountability, and improvement in student outcomes. While we remain steadfast and up front about our areas for growth, prior to the pandemic, we were making undeniable, clear progress towards improving student outcomes.

Over the past decade, as a sign of family confidence in our public schools, enrollment reached an all-time high of over 94,000 students right before the pandemic - up over 23,000 students since the 2007-08 school year. With your support, we have a nationally unrivalled universal Pre-K system for three- and four-year olds that serves nearly 14,000 students. We continue to increase per student funding and make investments in the modernization of school facilities, which were in a serious state of disrepair a decade ago. And as the Bowser Administration prepares to enter its eighth year of leading this great city, much of that progress has occurred under the Mayor's watch.

We have made larger gains than any other state in the nation in student outcome data on the National Assessment of Educational Progress (NAEP), with particularly strong gains for Black students, and we have made steady gains on our statewide assessments across all student subgroups. The gains in student learning and performance are real; they are not hype or spin. And where we still face challenges, we have been direct about those challenges.

Through all of this, OSSE has been a vital part of an extraordinary improvement journey that has benefited all students, all children, and all communities across the city – a journey that is a consequence of the governance improvements implemented in 2007.

The two legislative proposals that we are discussing today would fundamentally disrupt our collective progress, as well as the progress of future Administrations. While we may disagree on the nuances of education policy, surely all of us here today agree that, fundamentally, our education system as currently structured under Mayoral control has made exceptional, nationally-ranked strides. Furthermore, particularly given the current climate, any version of these bills would destabilize our education system in the very moment when we need stability the most, as we navigate the myriad challenges brought on by COVID-19. OSSE is central to our recovery efforts and an essential partner in our work to provide every child in Washington, D.C. with a high-quality education from cradle to career. These bills and any subsequent changes to governance structures are a distraction to leadership and staff who are responsible for essential education functions and will divert resources and attention from the urgent work of supporting children, families and educators. This is the time to work together with relentless focus to keep our schools open and safe and to finish the fight against this pandemic.

To be clear, in 2007, the Council dealt with the same issues we will discuss today; we believe the Council got it right then, and current efforts to reverse course on OSSE's governance structure are misguided.

I will now provide some comments on the two legislative proposals before us today.

Comments on the DC State Education Agency Independence Act of 2021

The DC State Education Agency Independence Act of 2021 abolishes OSSE as an Executive agency subordinate to the Mayor and places the agency in its entirety with the State Board of

Education (SBOE). This bill states that all staff, expenditures, and assets would be transferred to the SBOE. The SBOE would be under no obligation to retain staff, including the Superintendent. The SBOE would select the Superintendent without any input from the Mayor or this Council.

To be clear, the Executive strongly opposes this approach. Moreover, this legislation leaves several key questions unresolved and raises many philosophical and practical concerns. First, the proposed legislation ignores numerous operational concerns. The bill does not outline specific duties of the SBOE or the roles and responsibilities of the board under the new structure. This leaves open a great degree of uncertainty around how key functions of the agency, such as residency reviews, the enrollment audit, teacher licensing, and monitoring of federal grant programs, would be governed, operated, staffed, and funded, especially since SBOE has no appropriations power under current law.

Secondly, this bill removes the coordinating power and alignment with the education cluster that has been key to OSSE's success, and opens a Pandora's box of new issues, challenges, and questions related to OSSE's complex, interconnected work and governance. It is worth noting that in 2007, the Council debated putting the SEA under the SBOE and decided against it. The Council felt that if the SBOE controlled OSSE, it would create an "unacceptable" situation in which the SBOE and the Superintendent would effectively "oversee" the Mayor. We believe that Council got it right then, and the logic still stands.

Third, the proposed governance structure infuses more politics and competing interests into decision-making over OSSE's work, which is not the solution to our common priority of supporting students. Moreover, we do not believe the current configuration of the SBOE has the right balance of ward interests and citywide interests. Under current law, the SBOE is composed of 8 elected ward members and one elected at-large member, unlike the Council, which has a Chair and 4 at-large members in addition to 8 ward members. While representation from our diverse and vibrant wards is an asset, education is a citywide function, and needs a citywide lens, vision, and coordination. One at-large board member would not be reflective of this important need. By comparison, under its current structure, OSSE, via the Mayor, is responsible for and accountable to **all** District students within the public school system, regardless of politics, ward, race or creed.

The SBOE in its current configuration plays an important and meaningful role, and its board members and staff do a good service to our city. The SBOE's feedback, advocacy and partnership has influenced key policy changes, including OSSE's new plans to release educator workforce data and changes in the initial development of the STAR framework, and the body has important approval powers governing OSSE policies on graduation, attendance, academic standards, assessment, and accountability. This is an appropriate role for the SBOE that is working and meets the needs of the District.

Beyond the flaws in the proposed legislation, the timing of it is of great concern, as we strongly believe this is not the right time for a seismic shift in education governance. The COVID-19 pandemic has set us back – this type of deep structural change would cause great disruption when we should be collectively focusing our resources on students who need it the most and

allowing schools to regain as much normalcy as possible This is not the right policy, and this is not the right time.

Comments on the OSSE Independence Amendment Act of 2021

The second bill before us, the Office of the State Superintendent of Education Independence Amendment Act of 2021 would seek to make OSSE an independent agency and add additional investigative powers to the agency’s authorizing statute, a move that the Executive also strongly opposes. This bill similarly would create great destabilization from the change in governance structure and take away from OSSE’s core strengths, rooted in its interconnectedness and alignment with the citywide education cluster and vision.

Furthermore, the legislation has many details that we believe require much deeper consideration and deliberation. First, the bill is unclear regarding the selection of the Superintendent. D.C. Official Code 38-2601 states that the Superintendent is appointed by the Mayor with the advice and consent of the Council for a four-year term. The bill does not modify that language, but changes the definition of the State Superintendent in D.C. Official Code 2601.02 by striking the phrase “appointed by the Mayor.”

The bill sponsor should make this important distinction clear as to the intent of this change. The bill sponsor should also specify whether the Superintendent can *only* be removed for cause, as the Mayor currently has the authority to remove the Superintendent for cause. Moreover, the bill does not specify the timeline for any transition, or the changes in the functional capacity of OSSE and the expertise and resources that would be needed to execute the changes.

Furthermore, the addition of investigative responsibilities for the agency regarding inaccurate, incomplete, and misleading data and financial waste, fraud, and abuse is unnecessary and shifts the mission of OSSE in counterproductive ways. Sometimes, there is a need for an investigation, just like the one OSSE conducted with graduation and attendance issues in our high schools. However, these expansive and broad audit duties would leave our schools in a state of perpetual investigation, shift the agency’s mission, and require a substantial redirection of resources.

OSSE has made great strides in data collection, transparency, and oversight. OSSE provides considerable technical supports to LEAs to submit their data efficiently and correctly. OSSE builds tools to help stakeholders use data in meaningful ways. Over the past several years, OSSE has expanded its data collection to include attendance, discipline, and now educator workforce data. OSSE has engaged the public on data that it wants to see and has built powerful tools like the DC School Report Card, which presents transparent, comparable information across DCPS and charter schools, and numerous data reports available online. Per Council legislation, OSSE will be submitting a plan that includes work to build a system of course codes, an early warning system, and an improved electronic data warehouse that can expand our data capacity. This work is underway and on track and a meaningful step in the direction we want to go.

In terms of financial oversight, schools are subject to extensive audits of their financial records. In addition to the auditing work done by PCSB, the DC Auditor, and other entities, OSSE monitors all grantees, whether federal or local, on the use of grant funds consistent with

applicable laws. And, together with this Council, we have worked together to implement common financial reporting standards used across all schools, and OSSE will soon be reporting on school expenditures to provide even more public transparency.

OSSE will continue to improve aspects of its work in the areas highlighted in the bill, specifically around data and school financial transparency. However, changing the governance structure in this way is not the answer; it is a distraction from the critical recovery work in front of us and will have many unintended, detrimental consequences, including upending critical functions that our schools and students need to regain momentum after COVID-19.

Conclusion

In closing, we recognize the need to continue making improvements, but the bills before this body today do more harm than good. We are excited about the vision of OSSE's new leadership and look forward to a fair and timely confirmation hearing in a few weeks. The challenges that we face are significant and the work that OSSE has underway is critical: leading our work on high impact tutoring, ensuring our schools have supports to fight back against COVID-19, supporting mental and behavioral health supports for students and staff, getting the city the high quality data on the academic performance of our students through the statewide assessment after a two year hiatus due to COVID-19, stabilizing and strengthening our child care sector, accelerating outcomes for students with disabilities, and expanding access to more data.

We must continue to make improvements and execute these priorities without dismantling a structure that has generated concrete, meaningful results over the past 14 years. We must continue to work together especially in this very challenging moment to focus on our city's recovery efforts. With the deepest respect, I urge you to carefully consider the two bills before the Committee today before taking action and reconsider this approach and this timing. Let's not relitigate decisions already made by the Council and turn back the clock, but rather focus together, productively on our recovery and a continued trajectory of progress. Thank you for your time, and I look forward to answering your questions.