

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
District of Columbia Public Schools (DCPS)**



**Public Hearing on**

**Bill 24-0232, the “Student and Minor Access to Records and Transcripts Act  
(SMART) Act of 2021”**

**and**

**Bill 24-0665, the “Access to Advanced Placement Exams Amendment Act of  
2022”**

**Testimony of  
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Before the  
Committee of the Whole  
Council of the District of Columbia  
The Honorable Phil Mendelson, Chairman

September 27, 2022  
11:00 AM  
Via Zoom teleconference



Good morning, Chairman Mendelson, members of the Council, and staff. I am Sarah Navarro, Senior Deputy Chief of Secondary Schools for DC Public Schools (DCPS). On behalf of Mayor Bowser, I am honored to testify before you today on Bills 24-232, the “Student and Minor Access to Records and Transcripts (SMART) Act of 2021” and 24-665, the Access to Advanced Placement Exams Amendment Act of 2022”.

As you know, DCPS is committed to the support of all students and ensuring their safety and success as they grow academically and as individuals to become successful members of their communities.

### **Student and Minor Access to Records and Transcripts Act (SMART)**

I will first address Bill 24-232, the student and minor access to educational records legislation. As introduced, this bill would permit minors 16 years of age or older, without the consent of a parent or guardian, to access their education records.

DCPS believes that students should have consistent access to their information. Currently, students can see their schedules, grades, and attendance in ASPEN, a student information database, at any time. They also have a yearly “letter of understanding” (LOU) conversation with school counselors where they review their transcript. In addition, every student receives a Guide to Graduation College and Career annually that also includes the student’s transcripts. It is not DCPS’ practice to withhold student records from 16- and 17-year-olds who request them, nor does DCPS *require* parental consent for students under age 18 to receive a transcript or to send it to another school as stated in this bill’s introductory statement.

The federal Family Educational Rights and Privacy Act (FERPA) requires an educational agency or institution to provide a parent with an opportunity to inspect, review, and request amendments to their child’s education records; and transfers that right to students 18 years or age, it also prohibits agencies and institutions from sharing those records with other parties without parental consent with exception. Section 34 CFR 99.31(a) of FERPA lists the exceptions for when you need parental (or adult student) consent to share records. Subsection (a)(2) allows educational agencies or institutions to disclose records to postsecondary institutions without parental consent, and Subsection (a)(12) allows sharing with students themselves. This is DCPS’ practice. We provide transcripts to students under the age of 18 and to post-secondary schools without requiring parental consent. While this bill makes *mandatory* what is already *permitted*, a new bill is not necessary to achieve the goal of providing transcripts and records to students as this is already practice.

While we support student access to records, we are concerned that the 15-day requirement is an unreasonably short amount of time in which to comply with requests. Providing educational records is not simply a matter of downloading and attaching the document or copying and pasting into a message. Records must be reviewed and checked for accuracy, redacted (especially in the case of records where other student identifying information is included), compiled from various sources prior to production, etc., and must be completed by staff who have other assigned duties. In light of this, the federal government allows 45 days for records production under FERPA. This window of time considers the staffing capacity as well as processing time to retrieve and provide student transcripts and records. Severely cutting that time down to 15 days unnecessarily opens up the District to adverse consequences and increased liabilities and would also require additional staffing.

Further, regarding Section 2(b)(2) of the bill regarding gender markers and gender identity, DCPS is very supportive of our transgender and gender non-confirming students and has had guidance in effect instructing schools on how to support students in this area since 2015. Under this guidance schools are instructed to use a student’s preferred name and pronouns and note a student’s preferences in ASPEN to



ensure that the school community continues to support a student as they progress in their education from grade to grade and class to class.

Students' official name and gender are designations made on official government issued documentation such as a birth certificate or official school records. Officially changing name and gender on government documentation, such as official school records that are issued here, requires supporting government issued documentation to ensure accuracy, consistency, and limit liability. The U.S. Department of Education guidance provides that name and gender changes be made pursuant to government issued documentation such as court order. DCPS currently changes student names and gender on official records pursuant to a court order, officially making those changes, and DCPS has found this process to be extremely efficient. DCPS regularly receives court orders from students who obtained a legal name or gender change, and their records are updated accordingly. The current process works well and presents a balance that allows students to be recognized and supported in schools by the of their preferred names and gender, while limiting errors and liabilities, and maintaining alignment with federal guidance.

Finally, it is DCPS' goal to prepare all our students for college and career. As such we support our students in pursuing their goals after they leave us. We would never want to prevent a student from obtaining their transcripts. If Council hears from any students experiencing an issue obtaining transcripts without parental consent, please direct them to us immediately for assistance.

### **Access to Advanced Placement Exams Amendment Act of 2022**

Next, I will discuss Bill 24-665, the advanced placement (AP) exams legislation. While DCPS defers to OSSE to provide primary testimony, we wanted to provide a few comments for consideration.

First, the AP exam is owned and administered by an organization called the College Board. The College Board sets all the rules, requirements, timeline, costs, fees, and other items associated with the administration of the AP exam. As per the College Board, all students taking an AP exam must register through a school and go to that school for the exam administration. There is no option for students to register directly with College Board or complete exams at home. Homeschooled students can register at any school (public, charter, private, or other) that is offering AP exams and is able to accommodate them.

We believe an insertion of the phrase “or another appropriate site as determined by DCPS” in Sec 2 (a)(1) before the semicolon on page one line 28 would be needed if this bill is passed. The phrase would then read as follows:

(a)(1) Within 180 days after the effective date of this Act, the District of Columbia Schools (“DCPS”) shall permit non-enrollees to sit for an Advanced Placement exam (“exam”) at the student’s right-to-attend school or another appropriate site as determined by DCPS; provided that the Office of the State Superintendent of Education (“OSSE”) has certified to DCPS that the non-enrollee is eligible to sit for the exam.

This change is in alignment with, and further supports, lines 41-43 of the bill regarding reasonable alternate locations for testing. As it concerns costs: lines 51 –53 read as follows, the College Board establishes fees for the AP exam; DCPS does not. The inclusion of exam cost provisions unnecessarily complicates this bill by creating budgetary and appropriations authority issues. DCPS neither budgets for, nor is authorized to, expend appropriated funds on non-enrolled DCPS students. Cost is undeterminable given the number of students that may choose to take AP exams, and exam rates and fees that may change at any time given they are set by the testing company. Exam cost is not an issue that we have heard about from inquiring families, and we believe the fee waiver process would sufficiently support families who need assistance.



Thank you for the opportunity to testify before you today on these two bills. This concludes my remarks, and I would be happy to answer any questions you may have.

