

The Impact of Remote Learning on Education Equity in Nevada



A Report of the
Nevada Advisory Committee to the
U.S. Commission on Civil Rights

October 2021

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights (Commission) has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

**Nevada Advisory Committee to the
U.S. Commission on Civil Rights**

The Nevada Advisory Committee to the U.S. Commission on Civil Rights (Committee) submits this report regarding potential reduction in education equity for protected classes of students due to pandemic-related remote education. The contents of this report are based on testimony received during five public briefings between March and May 2021.

Based on the fourteen findings of this report, the Committee offers to the Commission recommendations for addressing civil rights concerns related to remote learning and education equity.

The Committee wishes to stress the urgency of addressing the mental health of our children and their families. Pandemic conditions and remote learning have both strained our education support services beyond their capacity to meet the mental health needs in our communities, which is leaving children vulnerable.

**Nevada Advisory Committee to the
U.S. Commission on Civil Rights**

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EXECUTIVE SUMMARY

On December 31, 2019, the World Health Organization learned of a cluster of pneumonia-like cases in Wuhan City, Hubei Province of China. These illnesses have since been linked to a disease caused by a previously unidentified strain of coronavirus, designated Coronavirus Disease 2019 (COVID-19) or severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The disease has since spread rapidly across the globe, including to the United States. Over 229,000,000 people have been infected globally, and over 42,800,000 have been infected in the U.S. alone. The total number of worldwide deaths attributed to this disease is currently over 4,700,000. Over 723,205 of those deaths were in the U.S.¹

On March 15, 2020, Nevada’s Governor, Steve Sisolak, closed the state’s K-12 schools in response to growing concern over fast-spreading SARS-CoV-2. Nevada’s 17 school superintendents quickly moved learning to online platforms. While the state developed its response, Committee members raised concerns about several news accounts warning that distance learning may widen existing inequities among students.²

On November 12, 2020, the Committee voted unanimously to examine the impact of distance learning on equity in education, especially among students in K through 16 schools with disabilities and students of color, during the COVID-19 pandemic.

This report was approved by a majority of the Committee on September 20, 2021. It begins with background on the COVID-19 pandemic, Nevada’s response to continuing education at all levels by requiring institutions to provide instruction online, relevant legislative authority, and references to federal COVID-19 relief for schools. The report also includes a section summarizing themes based on testimony examining issues with online remote learning. Finally, it concludes with findings and recommendations issued to the Commission which ultimately seek the attention and action of appropriate federal, state, and county entities. The Committee’s findings are accurate as of May 19, 2021.

While tracking pandemic-related events, Committee members questioned whether distance education had the potential to widen existing inequities between student populations, especially students with disabilities, English language learners, rural residents, and students of color. It is through this study that the committee learned about the scope of the challenges and possible solutions to emergent problems.

¹ Centers for Disease Control and Prevention, Covid Tracking Data, 18 October 2021, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

² Allen, John R., and Darrell M. West. “How to Address Inequality Exposed by the COVID-19 Pandemic.” *Brookings*, The Brookings Institute, 4 Nov. 2020, www.brookings.edu/president/how-to-address-inequality-exposed-by-the-covid-19-pandemic. ---. “For Families with Multiple Children, Sluggish Internet Amplifies Remote Learning Frustrations.” <https://thenevadaindependent.com/article/for-families-with-multiple-children-sluggish-internet-amplifies-remote-learning-frustrations>.

Also of note is the Committee’s statement of concern requesting the state to follow all compliance and reporting requirements associated with the federal relief funding laws.³ In total, the federal government passed five relief packages from March 6, 2020, to March 11, 2021. The first was the Coronavirus Preparedness and Response Act, which provided \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak.⁴

The Families First Coronavirus Response Act was the second multibillion-dollar legislative initiative intended to mitigate the impact of the coronavirus pandemic. It was signed into law on March 18, 2020. The Act included paid sick leave, insurance coverage for coronavirus testing, nutritional assistance, and unemployment benefits.⁵

The Coronavirus Aid, Relief, and Economic Security (CARES) Act—containing several health-related provisions including paid sick leave, insurance coverage for coronavirus testing, nutrition assistance, as well as other programs and efforts—was passed on March 27, 2020.⁶

On December 27, 2020, the fourth COVID-19 relief package was signed into law in the Consolidated Appropriations Act, 2021. The \$1.4 trillion omnibus bill that funded the federal government for fiscal year 2021 included \$900 billion in federal fiscal stimulus, the Coronavirus Response and Relief Supplemental Appropriations Act, and additional COVID-19 relief.⁷

On March 11, 2021, President Biden signed a \$1.9 trillion coronavirus relief plan called the American Rescue Plan Act. The funding package included direct aid to states, counties, municipalities, agencies, and school districts to mitigate budget cuts due to the economic downturn and to address on-going service needs.⁸

The Committee identified the following fourteen findings:⁹

1. Problems happening now have been known for many years and are being exacerbated by the pandemic. There was agreement among panelists that we must solve these issues now to address the current harm and to ensure we do not have these problems again when the next emergency happens.

³ NEV. ADVISORY COMMITTEE, STATEMENT ON DISTRIBUTION OF FEDERAL FUNDING TO ADDRESS COVID-19 RELIEF EFFORTS, (Aug. 25, 2021), <https://www.usccr.gov/files/2021/08-25-Nevada-Advisory-Committee-Statement-on-COVID-19-Federal-Relief-Disbursement.pdf>.

⁴ Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123 (codified as amended at 42 U.S.C. § 1320b—5).

⁵ Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020) (codified as amended in scattered sections).

⁶ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (codified as amended in scattered sections).

⁷ The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (codified as amended in scattered sections).

⁸ American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections).

⁹ Citations for findings can be found on pages 31-33 of the report.

2. Connecting Kids Nevada reported that all Nevada students now have an adequate computing device for education purposes and access to the internet; yet the Committee heard testimony from students, teachers, and community leaders that internet connectivity is a continuing problem and a severe problem for many disadvantaged populations. This problem is a potential civil rights issue and so must be addressed for every community statewide.
3. Training and professional development services were provided to teachers yet teaching remotely with technology requires intense training in both use of technology and online pedagogy. There was not enough time for teachers to become competent in both areas before moving to offer distance learning.
4. It is urgent to address mental and behavioral health concerns as soon as possible, as waiting could lead to dire consequences. The first step to this problem must be addressing Nevada's severe shortages of mental and behavioral health professionals.
5. Children are impacted by family circumstances, so wrap-around services for families must be made available.
6. Behavioral and mental health workforce development must ensure our professionals come from diverse backgrounds. People experiencing intense stress and trauma need to speak to someone who can relate to their experiences.
7. It is unclear whether students with disabilities have received required services during the lockdown. There are concerns that services are either absent or insufficient.
8. Students have experienced learning loss due to a range of reasons, but it is not clear how much or what types of learning loss. It will be important to treat mental health issues, family circumstances, and learning loss concurrently because each is a serious interrelated problem.
9. Parents who are essential workers often lacked access to childcare services and relied on older children to care for younger siblings, so those older children often disappeared from school.
10. Emergent English language learners had additional difficulties adapting to distance learning due to a lack of information being provided to their families in a native language.
11. Nevada navigated the abrupt transition to complete distance learning in large part due to public-private partnerships. Our business community quickly mobilized to work hand in hand with governing officials to address the digital divide.
12. Nevada school districts should offer distance education as a choice for parents and students permanently. With the ongoing pandemic and now some families feeling their children do better in distance learning classes, having the choice to continue with the distance learning modality should exist permanently.

13. The Committee’s Native American panelists reported a lack of access to internet services and a lack of prompt communication from their school districts.
14. The Committee’s rural panelists reported poor quality internet service that impact the ability of students to engage in online classes and to upload assignments in a timely manner.

Based on the findings, the Committee determined the follow recommendations should be sent to the relevant officials:

1. The Commission should send this report and issue recommendations to the Nevada Governor to:
 - a. Coordinate with the appropriate elected and appointed leaders to concurrently address:
 - 1.) Nevada’s insufficient broadband internet infrastructure; and
 - 2.) The dire shortage of behavioral and mental health providers and services.
 - b. Fully fund SB89 from 2019 to meet the nationally recognized ratios of behavioral and mental health providers to students.¹⁰
 - c. Coordinate between elected and appointed leaders who make decisions that impact Native American students to ensure Native American leaders are included in those decisions.
 - d. Ensure that if separate solutions for reservations, rural towns and cities, and urban areas are needed to fully address education inequities caused by the pandemic, Nevada’s leaders must create separate solutions. No student should go without access to:
 - 1.) High-quality internet service;
 - 2.) An adequate computing device for education purposes that is internet enabled;
 - 3.) Technology assistance;
 - 4.) Culturally appropriate mental and behavioral health services; and
 - 5.) Adaptive approaches to learning.
2. The Commission should send this report and issue recommendations to the County Commission Chairs and Municipal Mayors to:

¹⁰ S.B. 89, 80th Reg. Sess. (Nev. 2019).

- a. Partner with private industries to promptly create and implement plans for disbursing funding for internet service expansion; and
 - b. Ensure every household has access to high quality internet service.
3. The Commission should send this report and issue recommendations to the Nevada Department of Education to:
- a. Partner with the county school superintendents and the Nevada System of Higher Education to create distance education professional development for K-12 teachers; and
 - b. Create mentoring relationships between higher education faculty who are veteran distance learning instructors and K-12 teachers.
4. The Commission should send this report and issue recommendations to each Nevada school district superintendent and school board of trustees' president to:
- a. Create training opportunities for students and families to learn how to use distance learning devices and education software;
 - b. Ensure training and education materials are in languages spoken at home;
 - c. Ensure students with disabilities who are engaged in distance learning are receiving all legally required services;
 - d. Create mechanisms for families who are homeless and interfacing with social services and who have children in distance learning to stay connected to schools;
 - e. Provide permanent options for distance learning for families who feel their children do better through online education;
 - f. Provide asynchronous distance education classes to meet the needs of students who must help their families with childcare due to a lack of services because of the pandemic;
 - g. Provide culturally appropriate social and emotional learning opportunities;
 - h. Aggressively address precursors, such as poverty, to the school-to-prison pipeline through early interventions and preventative support;
 - i. Empower educators to develop strategies for identifying and addressing learning loss;
 - j. Invest relief funding to hire extra help, possibly retired teachers, who can assist in assessing students for skill and content learning loss; and

- k. Involve school mental and behavioral health professionals in differentiating between learning loss and trauma related to the pandemic.
5. The Commission should send this report and issue recommendations to the Nevada System of Higher Education Board of Regents to:
- a. Create additional capacity in existing workforce development programs for behavioral and mental health professions including:
 - 1.) Developing stacked degree¹¹ and pipeline programs;
 - 2.) Aligning state licensing with these stacked degrees; and
 - 3.) Expanding higher education offerings to support these degrees.
 - b. Support school districts as they work to design and implement ratio improvement plans to meet the designated recommended ratios established by the Nevada State Board of Education under Senate Bill 89 (2019).¹² For school psychologists, it is 1 school psychologist to every 500 students.

¹¹ Stackable degrees consist of shorter certifications and degrees awarded. Example: A student in a mental health program with a stackable degree would earn a certificate after one-year or 30 credits. The student could take that certificate to apply for entry-level positions in a behavioral health workplace. The student can then complete the second year or another 30 credits to earn an associate degree. The whole degree program in this field is divided into one-year completions that translate into promotions and higher pay with each certification or degree earned.

¹² S.B. 89, 80th Reg. Sess. (Nev. 2019).

INTRODUCTION

The Commission is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice.¹³ The Commission has established advisory committees in each of the 50 states and the District of Columbia. These Advisory Committees advise the Commission on issues occurring in their states that are within the Commission’s jurisdiction.¹⁴

On November 12, 2020, pursuant to 42 U.S.C. § 1975a and 45 C.F.R. § 703.2, the Committee voted unanimously to examine the impact of distance learning on equity in education, especially among students in K through 16 schools with disabilities and students of color, during the COVID-19 pandemic. In the early months of the pandemic, Governor Steve Sisolak declared a state of emergency and announced several executive orders to curb the spread of COVID-19, including the closure of schools.¹⁵ As a result, schools across Nevada quickly pivoted to online distance learning, and state administrators focused on addressing the technological needs of students and the education community. While the state developed its response, Committee members raised concerns about several news accounts warning that distance learning may widen existing inequities among students.¹⁶

This report begins with background on the COVID-19 pandemic, Nevada’s response to continuing education at all levels by requiring institutions to provide instruction online, relevant legislative authority, and references to federal COVID-19 relief for schools. It also includes a section summarizing themes based on testimony examining issues with online distance learning. The report concludes with findings and recommendations issued to the Commission which ultimately seek the attention and action of appropriate federal, state, and county entities.

This report, along with other state advisory committee reports, memorandums, and statements of concern, examine potential infringements on civil rights exacerbated by the COVID-19

¹³ 42 U.S.C. § 1975a.

¹⁴ 45 C.F.R. § 703.2.

¹⁵ See e.g., STATE OF NEV., COVID-19 DECLARATION OF EMERGENCY FOR COVID-19, (Mar. 12, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/; STATE OF NEV., COVID-19 DECLARATION OF EMERGENCY DIRECTIVE, (Mar. 15, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/; STATE OF NEV., DECLARATION OF EMERGENCY DIRECTIVE 005, (Mar. 20, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Declaration_of_Emergency_Directive_005/.

¹⁶ See e.g., Molly Carnell, “The Possible Consequences of Distance Learning on the Most Vulnerable Learners,” *KUNR Radio*, Dec. 18, 2020, <https://www.kunr.org/post/possible-consequences-distance-learning-most-vulnerable-learners>; Jackie Valley, “Class time from the kitchen: Teachers and students adjust to distance learning but inequities remain,” *Nevada Independent*, Mar. 30, 2020, <https://thenevadaindependent.com/article/class-time-from-the-kitchen-teachers-and-students-adjust-to-distance-learning-but-inequities-remain>.

pandemic.¹⁷ Also of note is the Committee's statement of concern requesting the State to follow all compliance and reporting requirements associated with the federal relief funding laws.¹⁸

Background

On December 31, 2019, the World Health Organization learned of a cluster of pneumonia cases in Wuhan City, Hubei Province of China. These illnesses have since been linked to a disease caused by a previously unidentified strain of coronavirus, designated Coronavirus Disease 2019, or COVID-19. The disease has since spread rapidly across the globe, including to the United States. Over 229,000,000 people have been infected globally,¹⁹ and over 42,800,000 have been infected in the U.S. alone.²⁰ The total number of worldwide deaths attributed to this disease is currently over 4,700,000. Over 723,205 of those deaths were in the U.S.²¹

Activities worldwide swiftly came to a halt after the World Health Organization declared a global emergency as the coronavirus began rapidly spreading,²² forcing countries to go into lockdown,

¹⁷ See, e.g., U.S. Commission on Civil Rights, Michigan Advisory Committee, *The Impact of the COVID-19 Pandemic on Voting Rights and Access in Michigan*, 2021, <https://www.usccr.gov/files/2021/06-10-MI-COVID-19-Voting-Rights.pdf>; U.S. Commission on Civil Rights, Hawai'i Advisory Committee, *COVID-19 and Pacific Islander Communities in Hawai'i*, 2021, <https://www.usccr.gov/files/2021/05-19-HI-SAC-COVID-19-and-Pacific-Islanders-Report.pdf>; U.S. Commission on Civil Rights, Michigan Advisory Committee, *The COVID-19 and Native American Community*, 2021, <https://www.usccr.gov/files/2021/05-19-AZ-Memo-COVID-19-Native-Americans.pdf>; U.S. Commission on Civil Rights, Maryland Advisory Committee, *COVID-19 and Health Disparities in Maryland*, 2021, <https://www.usccr.gov/files/2021/04-20-MD-SAC-COVID-19-and-Health-Disparities-Advisory-Memo.pdf>; U.S. Commission on Civil Rights, Ohio Advisory Committee, *Civil Rights and Equity in the Delivery of Medical and Public Services During the COVID-19 Pandemic in Ohio*, 2021, <https://www.usccr.gov/files/2021/02-08-OH-COVID-Health-Disparities.pdf>; U.S. Commission on Civil Rights, Nevada Advisory Committee, *Advisory Memorandum: Nevada Advisory Committee to the U.S. Commission on Civil Rights Statement on Voting Access During the COVID-19 Pandemic*, 2020, <https://www.usccr.gov/files/2020-10-21-Nevada-Advisory-Committee-Statement-on-Voting-Rights.pdf>; U.S. Commission on Civil Rights, Connecticut Advisory Committee, *Advisory Memorandum: Statement on COVID-19 and Nursing Homes*, 2020, <https://www.usccr.gov/files/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf>; U.S. Commission on Civil Rights, Alaska Advisory Committee, *Advisory Memorandum: Alaska Advisory Committee to the U.S. Commission on Civil Rights Urges Safe and Secure Election Administration During the COVID-19 Pandemic*, 2020, <https://www.usccr.gov/files/2020-09-22-AK-SAC-Statement-on-COVID-19-and-Voting-Rights.pdf>.

¹⁸ NEV. ADVISORY COMMITTEE, STATEMENT ON DISTRIBUTION OF FEDERAL FUNDING TO ADDRESS COVID-19 RELIEF EFFORTS, (Aug. 25, 2021), <https://www.usccr.gov/files/2021/08-25-Nevada-Advisory-Committee-Statement-on-COVID-19-Federal-Relief-Disbursement.pdf>.

¹⁹ World Health Organization Coronavirus Disease (COVID-19) Dashboard, <https://covid19.who.int/> as of August 30, 2021, there were 217 million confirmed cases worldwide.

²⁰ Centers for Disease Control and Prevention COVID Data Tracker <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> as of August 30, 2021, there were 39.1 million cases and 639,000 deaths in the U.S.

²¹ Centers for Disease Control and Prevention, Covid Data Tracker, 18 October 2021, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

²² Sui-lee Wee, Donald G. McNeil Jr., Javier C. Hernández, "W.H.O. Declares Global Emergency as Wuhan Coronavirus Spreads," *NY Times*, Jan. 30, 2020, <https://www.nytimes.com/2020/01/30/health/coronavirus-world-health-organization.html>.

impose temporary travel restrictions that barred entry by any foreign national who has traveled to China in the past 14 days, and to enact other restrictive measures that altered the way we moved through the world.

In the U.S., including Nevada, many states declared a state of emergency and quickly began implementing contingency plans to allow for continuity of operations. On March 12, 2020, Governor Steve Sisolak declared a state of emergency,²³ and on March 15, 2020, he announced that Nevada’s K-12 schools would be canceled out of concern for the spread of the coronavirus.²⁴ The Nevada Department of Education followed by requiring schools to implement distance learning for their students.²⁵ The pandemic continued into 2021, and school districts continued to instruct students remotely.²⁶ As 2021 progressed, some school districts reopened and offered hybrid options for their students to provide a mix of in-person and online education.²⁷

Early on, Nevada, along with many states across the country, experienced challenges supplying all students with laptops and hotspot devices. Along with these shortages, parents, students, and school staff struggled turning their homes into learning centers as multiple family members shared the same internet connection. Whole families also experienced challenges with computer literacy as they struggled to quickly learn new school software applications and programs. Nevada’s rugged terrain compounded these issues as it exacerbated the inadequate internet services available for students living in rural areas.²⁸

The Governor and the Nevada Department of Education, in collaboration with school districts and private stakeholders, developed support programs to help students, educators, and families, and state legislators emphasized the pandemic’s impact on vulnerable communities and focused on passing legislation with monetary relief and capacity-building improvements. Many of these efforts are noted in the sections below.

While tracking these events, Committee members questioned whether distance education had the potential to widen existing inequities between student populations, especially students with disabilities, English language learners, rural residents, and students of color. Committee members

²³ STATE OF NEV., COVID-19 DECLARATION OF EMERGENCY FOR COVID-19, (Mar. 12, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/.

²⁴ STATE OF NEV., COVID-19 DECLARATION OF EMERGENCY DIRECTIVE, (Mar. 15, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/.

²⁵ Jackie Valley, The Nevada Independent, “State superintendent describes ‘learning at home’ plans in email to school district leaders,” March 17, 2020.

²⁶ Nevada Department of Education, *Guidance Memorandum 21-02*, https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/News_Media/Guidance_Memos/2021/GuidanceMemo21-02.pdf (Last visited Oct. 18, 2021).

²⁷ State of Nevada Department of Education, *District and Charter Reopening Plan Guidance*, , <https://doe.nv.gov/DistrictReopeningPlans/> (last visited Oct. 1, 2021).

²⁸ Rebecca Garcia, President Nevada Parent Teacher Association, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, May 19, 2021, transcript, p. 20-24 (hereafter cited as *5/19/21 Web Hearing*).

read articles in the news that caused them to have these concerns.²⁹ It is through this study that the committee learned about the scope of the challenges and possible paths forward.

Legislative Authority

Congress began addressing public education as a legally enforceable civil right after the 1954 *Brown v. Board of Education* Supreme Court ruling through which the full court affirmed that schools segregated by race were inherently unequal and therefore in violation of the 14th Amendment's "equal protection of the laws" clause.³⁰ But the Supreme Court could not directly enforce its ruling because it is reliant on the Executive Branch, through the President, for implementation. This reliance can cause a problem if the President does not act. Most infamously, after the *Worcester v. Georgia* (1831) Supreme Court ruling established that state law could not be enforced on a Native American reservation,³¹ President Andrew Jackson chose to not enforce the Court's ruling.³² The ultimate result was the forced Cherokee expulsion from Georgia, known today as the Trail of Tears.³³ So, there was precedent early on for a Supreme Court ruling such as *Brown v. Board of Education* to be disregarded. Yet, the ruling did set a new "equal protection of the laws" standard for evaluating education as a civil right. According to the National Archives the "equal protection of the law" argument ended the "separate but equal" legal view of education,

State-sanctioned segregation of public schools was a violation of the 14th Amendment and was therefore unconstitutional. This historic decision marked the end of the "separate but equal" precedent set by the Supreme Court nearly 60 years earlier and served as a catalyst for the expanding civil rights movement.³⁴

In 1957, President Eisenhower acted to enforce *Brown v. Board of Education* and sent the 101st Airborne Division into Little Rock, Arkansas to stop Governor Orval Faubus from using the Arkansas National Guard to block the integration of Central High School.³⁵ And, in 1960, Federal

²⁹ Molly Carnell, "The Possible Consequences of Distance Learning on the Most Vulnerable Learners," *KUNR Radio*, Dec. 18, 2020 <https://www.kunr.org/post/possible-consequences-distance-learning-most-vulnerable-learners>; Jackie Valley, "Class time from the kitchen: Teachers and students adjust to distance learning but inequities remain," *Nevada Independent*, Mar. 30, 2020 <https://thenevadaindependent.com/article/class-time-from-the-kitchen-teachers-and-students-adjust-to-distance-learning-but-inequities-remain>.

³⁰ *Brown v. Bd. of Educ. of Topeka, Shawnee Cty., Kan.*, 347 U.S. 483 (1954), *supplemented sub nom. Brown v. Bd. of Educ. of Topeka, Kan.*, 349 U.S. 294 (1955); *See also*, U.S. Const. amend. XIV.

³¹ *Worcester v. State of Ga.*, 31 US 515 (1832).

³² Celano, Daniele. "The Indian Removal Act: Jackson, Sovereignty and Executive Will." *The Purdue Historian* 8, 1 (2017) p. 8. <http://docs.lib.purdue.edu/puhistorian/vol8/iss1/6> Accessed 18 Oct. 2021.

³³ Frank, Andrew, "Indian Removal." *Oklahoma Historical Society*, Oklahoma Historical Society, www.okhistory.org/publications/enc/entry.php?entryname=INDIAN%20REMOVAL. Accessed 30 Aug. 2021.

³⁴ National Archives, *Brown v. Board of Education*, <https://www.archives.gov/education/lessons/brown-v-board>, (Last accessed Oct. 18, 2021.)

³⁵ Lonnie Bunch, "The Little Rock Nine," Smithsonian National Museum of African American History and Culture, <https://nmaahc.si.edu/blog-post/little-rock-nine>. Accessed 8 Sept. 2021.

Marshalls escorted Ruby Bridges to school every day for a year as she became the first Black student to attend a historically white school in New Orleans.³⁶

As time proceeded, the Supreme Court ruled that unequal treatment in education was unconstitutional in more cases, such as *Green v. County School Board of New Kent County* in 1968 when the Court ordered states to dismantle segregated school systems “root and branch,”³⁷ and in *Alexander v. Holmes County Board of Education* (1968) when the court ruled that Mississippi must desegregate “with all deliberate speed.”³⁸

According to Scott F. Johnson, Professor of Law at Concord Law School at Purdue University Global, where he teaches Education Law and Special Education Law:

The Equal Protection Clause of the 14th Amendment provides that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” It applies to public elementary and secondary schools, as they are considered to be state actors.³⁹

Johnson added that *Brown v. Board of Education* was “one of the most famous and important [decisions] issued by the Court. . . .”⁴⁰

Congress also acted to enforce the *Brown v. Board of Education* desegregation mandate through the Civil Rights Act of 1964.⁴¹ Through this federal legislation, Congress empowered the Attorney General (under Title IV) to file legal desegregation cases against states and prohibited federal funding of any school out of compliance with desegregation orders (under Title VI).⁴²

In 1965, President Lyndon Johnson signed the Elementary and Secondary Education Act (ESEA).⁴³ The ESEA represented a presidential commitment to promote equal access to education.⁴⁴

³⁶ Debra Michals, “Ruby Bridges,” National Women’s History Museum, <https://www.womenshistory.org/education-resources/biographies/ruby-bridges>. Accessed 8 Sept. 2021.

³⁷ *Green v. Cty. Sch. Bd. of New Kent Cty., Va.*, 391 US 430 (1968).

³⁸ *Alexander v. Holmes Cty. Bd. of Educ.*, 396 US 19 (1969).

³⁹ Scott F. Johnson, “The Fourteenth Amendment Protects the Right to a Public Education,” Concord Law School, <https://www.concordlawschool.edu/blog/constitutional-law/14th-amendment-protects-rights-education/>. Accessed 8 Sept. 2021.

⁴⁰ Ibid.

⁴¹ 42 U.S.C § 2000e.

⁴² Title IV of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000c to 2000c-9 (2018); Title VII of the Civil Rights Act of 1964, [42 U.S.C. §§ 2000d to 2000d-7 \(2018\)](#); *see generally*, “The Civil Rights Act of 1964: A Long Struggle for Freedom.” *Library of Congress*, Library of Congress, www.loc.gov/exhibits/civil-rights-act/epilogue.html. Accessed 20 Sept. 2020.

⁴³ Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, 79 Stat. 27 (codified as amended in scattered sections of 20 U.S.C.).

⁴⁴ Paul, C. A. (2016). Elementary and Secondary Education Act of 1965. *Social Welfare History Project*. Retrieved from <http://socialwelfare.library.vcu.edu/programs/education/elementary-and-secondary-education-act-of-1965/> Accessed Oct. 18, 2021.

In 2002, President Bush signed a reauthorized iteration of ESEA called the No Child Left Behind Act,⁴⁵ and then in 2015, President Obama signed another ESEA reauthorization called the Every Student Succeeds Act.⁴⁶ These federal laws reaffirmed the federal government’s commitment to equal opportunity for every child. Specifically, the Every Student Succeeds Act:

- Advances equity for America's disadvantaged and high-need students;
- Requires that all students be taught through high academic standards;
- Ensures vital information is provided through annual assessments that measure progress;
- Supports local innovations – including evidence-based and place-based interventions;
- Sustains and expands investments in increasing access to high-quality preschool; and
- Maintains accountability in lowest-performing schools.⁴⁷

This equity and civil rights minded legislative foundation influenced the federal COVID-19 pandemic relief programs. The CARES Act specifically designates how the funding can be allocated and the deadlines for spending the funds.⁴⁸ It also includes reporting criteria to preempt discrimination, fraud, and waste.⁴⁹

On March 11, 2021, President Biden signed The American Rescue Plan Act,⁵⁰ which is also guided by compliance and accountability directives from the Department of the Treasury.⁵¹ Public forums, feedback periods, disbursement transparency, and expenditure reporting are all included in the compliance regulations.⁵² According to the Department of the Treasury, State, territorial, metropolitan city, county, Tribal governments, and Non-Entitlement Units that receive funding from the State and Local Fiscal Recovery Funds Programs are required to meet compliance and

⁴⁵ No Child Left Behind Act of 2001, Pub. L. No. 107-110, 115 Stat. 1425 (codified as amended in scattered sections of 20 U.S.C.); *see generally*, “No Child Left Behind Elementary and Secondary Education Act (ESEA).” *U.S. Department of Education*, U.S. Department of Education, www2.ed.gov/nclb/landing.jhtml. Accessed 30 Aug. 2021.

⁴⁶ Every Student Succeeds Act (ESSA), Pub. L. No. 114-95, 129 Stat. 1802 (2015); *see generally* “Every Student Succeeds Act (ESSA).” *U.S. Department of Education*, U.S. Department of Education, www.ed.gov/essa?src=ft. Accessed 30 Aug. 2021.

⁴⁷ *See U.S. Department of Education*, U.S. Department of Education, www.ed.gov/essa?src=ft. Accessed 30 Aug. 2021.

⁴⁸ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (codified as amended in scattered sections).

⁴⁹ “Coronavirus Oversight An Ongoing Review of the Federal Response to the COVID-19 Pandemic and Oversight of Related Spending.” *U.S. Government Accountability Office*, U.S. Government Accountability Office, www.gao.gov/coronavirus. Accessed 30 Aug. 2021.

⁵⁰ American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections).

⁵¹ Department of the Treasury, *Recipient Compliance and Reporting Responsibilities*, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities> Accessed Oct. 18, 2021.

⁵² *Ibid.*

reporting responsibilities. This ensures an equitable, transparent, and responsible recovery for all Americans.⁵³

Both the CARES Act and American Rescue Plan Act included federal funds for state governments and specific allocations to go directly to school districts to address the pandemic's negative repercussions.⁵⁴ Congress recognized that distance learning could create unequal circumstances among various student populations, so the compliance guidelines and reporting requirements include directives to ensure each student is afforded equal protection of the law. The Department of Education emphasized this concern in a memo dated March 17, 2021.⁵⁵

Nevada's legislature passed what it referred to as a "waterfall" bill before the 2021 legislative session ended on May 31, 2021, to provide priorities for allocating new federal relief funding. Senate Bill 461 includes exact dollar amounts directed at specific programs, such as unemployment insurance, and agencies that will receive federal dollars to continue providing services. It also includes general guidelines for disbursing remaining dollars to enhance areas such as, but not limited to, education, social services, infrastructure, and health care.⁵⁶

In total, the federal government passed five relief packages from March 6, 2020, to March 27, 2021.⁵⁷ The Coronavirus Preparedness and Response Act provided \$8.3 billion in emergency funding for federal agencies to respond to the coronavirus outbreak.⁵⁸ According to independent analysis, "[o]f the \$8.3 billion, \$6.7 billion (81%) [was] designated for the domestic response and \$1.6 billion (19%) for the international response."⁵⁹ Most of the funding was dedicated to the U.S.

⁵³ "Recipient Compliance and Reporting Responsibilities." *U.S. Department of the Treasury*, U.S. Department of the Treasury, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>. Accessed 30 Aug. 2021.

⁵⁴ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (codified as amended in scattered sections); American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections).

⁵⁵ Department of Education, *Department of Education Announces American Rescue Plan Funds for all 50 States, Puerto Rico, and the District of Columbia to Help Reopen School*, <https://www.ed.gov/news/press-releases/department-education-announces-american-rescue-plan-funds-all-50-states-puerto-rico-and-district-columbia-help-schools-reopen> Accessed Oct. 18, 2021.

⁵⁶ S.B. 461, 81st Reg. Sess. (Nev. 2021).

⁵⁷ Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123 (codified as amended at 42 U.S.C. § 1320b—5); Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020) (codified as amended in scattered sections); Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (codified as amended in scattered sections); The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (codified as amended in scattered sections); American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections).

⁵⁸ Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123 (codified as amended at 42 U.S.C. § 1320b—5).

⁵⁹ Stephanie Oum et al., *The U.S. Response to Coronavirus: Summary of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*, KAISER FAMILY FOUNDATION (Mar. 11, 2020), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-u-s-response-to-coronavirus-summary-of-the-coronavirus-preparedness-and-response-supplemental-appropriations-act-2020/>.

Department of Health and Human Services for research and development of vaccines, therapeutics, and diagnostics.⁶⁰ Among other things, funding was dedicated to state and local response efforts, loan subsidies for entities financially harmed because of the coronavirus, and a waiver removing restrictions on Medicare providers allowing them to offer telehealth services.⁶¹

The Families First Coronavirus Response Act was the second multibillion-dollar legislative initiative intended to mitigate the impact of the coronavirus pandemic. It was signed into law on March 18, 2020. The Act included paid sick leave, insurance coverage for coronavirus testing, nutritional assistance, and unemployment benefits.⁶²

The third piece of major legislation, the Coronavirus Aid, Relief, and Economic Security (CARES) Act—containing several health-related provisions including paid sick leave, insurance coverage for coronavirus testing, nutrition assistance, as well as other programs and efforts—was passed on March 27, 2020.⁶³

On December 27, 2020, the fourth COVID-19 relief package was signed into law: the Consolidated Appropriations Act, 2021. The \$1.4 trillion omnibus bill that funded the federal government for fiscal year 2021 included \$900 billion in federal fiscal stimulus, the Coronavirus Response and Relief Supplemental Appropriations Act, and additional COVID-19 relief.⁶⁴

On March 11, 2021, President Biden signed a \$1.9 trillion coronavirus relief plan called the American Rescue Plan Act. The funding package included direct aid to states, counties, municipalities, agencies, and school districts to mitigate budget cuts due to the economic downturn and to address on-going service needs.⁶⁵

These Acts also included financial relief—through individual rebates, stimulus payments, continue unemployment insurance, and paid leave—and funded housing assistance, food assistance,

⁶⁰ Stephanie Oum et al., *The U.S. Response to Coronavirus: Summary of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*, KAISER FAMILY FOUNDATION (Mar. 11, 2020), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-u-s-response-to-coronavirus-summary-of-the-coronavirus-preparedness-and-response-supplemental-appropriations-act-2020/>; see also Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123 (codified as amended at 42 U.S.C. § 1320b—5).

⁶¹ Stephanie Oum et al., *The U.S. Response to Coronavirus: Summary of the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020*, KAISER FAMILY FOUNDATION (Mar. 11, 2020), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-u-s-response-to-coronavirus-summary-of-the-coronavirus-preparedness-and-response-supplemental-appropriations-act-2020/>; see also Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. No. 116-123 (codified as amended at 42 U.S.C. § 1320b—5).

⁶² Families First Coronavirus Response Act, Pub. L. No. 116-127, 134 Stat. 178 (2020) (codified as amended in scattered sections).

⁶³ Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) (codified as amended in scattered sections).

⁶⁴ The Consolidated Appropriations Act, 2021, Pub. L. No. 116-260 (codified as amended in scattered sections).

⁶⁵ American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections).

vaccines and testing, and expansion of broadband internet. When President Biden signed the \$1.9 trillion coronavirus relief plan, the American Rescue Plan Act, funding was to be directed to states, counties, municipalities, agencies, and school districts to prevent budget cuts due to the economic downturn and to address on-going service needs.⁶⁶ States were able to allocate rescue dollars to shore up depleted unemployment insurance programs, and cities and counties could subsidize expanding and fortifying internet infrastructure.⁶⁷ The American Rescue Plan included reporting and transparency requirements.⁶⁸

⁶⁶ American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections); *President Biden Announces American Rescue Plan*, THE WHITE HOUSE BRIEFING ROOM (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/legislation/2021/01/20/president-biden-announces-american-rescue-plan/>.

⁶⁷ American Rescue Plan Act, Pub. L. No. 117-2, 135 Stat. 4 (2021) (codified as amended in scattered sections); *American Rescue Plan Act of 2021*, NAT'L CONF. OF STATE LEGISLATURES (Mar. 9, 2021), <https://www.ncsl.org/ncsl-in-dc/publications-and-resources/american-rescue-plan-act-of-2021.aspx>.

⁶⁸ American Rescue Plan Act, 42 U.S.C.A. § 803(d); *see also U.S. Department of the Treasury*, U.S. Department of the Treasury, home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities. Accessed 20 Sept. 2020.

SUMMARY OF PANEL TESTIMONY

Five web hearings were held in Spring of 2021 on the following dates: on March 3, March 31, April 21, May 5, and May 19. They included testimony from the Nevada State Board of Education, Nevada System of Higher Education, Nevada K-12 administrators, the legal community, educators in various institutions in urban and rural environments, behavioral health professionals, parents, and students. Panelists provided diverse testimony regarding concerns with distance learning and equity in education during the COVID-19 pandemic. Several themes emerged, including difficulties with technology literacy and professional development for educators, increasing behavioral health needs, possible learning loss, access for students with disabilities and English language learners, the role of public/private partnerships, the lack of childcare, and questions about future options to choose distance learning.

Emergent Pandemic Problems

Digital Divide

On March 15, 2020, Nevada's Governor Steve Sisolak closed the state's K-12 schools in response to growing concern over fast-spreading severe acute respiratory syndrome coronavirus 2, or SARS-CoV-2.⁶⁹ The state's 17 school superintendents quickly moved learning to online platforms.⁷⁰ In short order, school administrators and education boards of governance began openly worrying about a serious digital divide.⁷¹

The number of students unable to log in to online classes due to no home internet services or due to lacking a device to log in to distance learning classes was unknown.⁷² As school districts conducted assessments, high numbers emerged and closing the digital divide quickly became a state priority.⁷³

⁶⁹ STATE OF NEV., COVID-19 DECLARATION OF EMERGENCY DIRECTIVE, (Mar. 15, 2020), https://gov.nv.gov/News/Emergency_Orders/2020/2020-03-15_-_COVID-19_Declaration_of_Emergency_Directive_001/.

⁷⁰ Nevada Department of Education, "Ongoing Response to School Building Closures in Nevada," https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/News_Media/Press_Releases/2020_Documents/OngoingResponseSchoolBuildingClosures.pdf Accessed Oct. 18, 2021.

⁷¹ Krysten Leonard, April 7, 2020, "Nevada Interrupted: A shift to online schooling underscores digital divide, Cox expands free internet," <https://thenevadaindependent.com/article/nevada-interrupted-as-shift-to-online-schooling-underscores-digital-divide-cox-expands-free-internet> Accessed Oct. 18, 2021.

⁷² Jackie Valley, May 5, 2020, "Coronavirus closures shed light on uneven technology across Clark County schools," <https://thenevadaindependent.com/article/coronavirus-closures-shed-light-on-uneven-technology-across-clark-county-schools> Accessed Oct. 18, 2021; Jackie Valley, May 19, 2020, "Nevada Interrupted: Wifi-enabled buses bring internet to students lacking access at home," <https://thenevadaindependent.com/article/nevada-interrupted-wifi-enabled-buses-bring-internet-to-students-lacking-access-at-home> Accessed Oct. 18, 2021.

⁷³ Press Release, January 5, 2021, "Connecting Kids Ensures 100% Of Nevada's Students Participating In Digital Learning Have Access To A Computer And The Internet At Home," <https://connectingkidsnv.org/wp-content/uploads/2021/01/January-5-2021-Release.pdf> Accessed Oct. 18, 2021.

Jhone Ebert, Nevada Superintendent of Public Instruction testified as January 5, 2021, that Connecting Kids Nevada had distributed 485,705 devices and the means to connect to some form of internet service to every student in the state. This ensured that no family lacked the resources to access online classes. Connecting Kids Nevada is a public/private partnership created by the Governor’s COVID-19 Response, Relief, and Recovery Taskforce through Mr. Jim Murren, former CEO of MGM and Ms. Elaine Wynn, former President of the Nevada State Board of Education.⁷⁴

Mr. Brian Mitchell, Director of Nevada’s Office of Science, Innovation and Technology, added that his office had been aware of the significance of the statewide digital divide before the pandemic, but state government had prioritized ensuring that schools, libraries, and community centers had broadband connections and accessible technology.⁷⁵ He said:

[Historically] like the department and like the school districts, the issue of connectivity at home for students was not top of mind prior to the pandemic. We were primarily concerned with connecting libraries and schools, school buildings where the primary learning happened and then we also worked to connect communities, including business, government, and also residential areas more broadly but the pandemic really drove home the need to work to connect students at home.⁷⁶

On January 5, 2021, the *Nevada Independent* reported that every student in every school district had a device and a connection to internet through reduced-cost internet service, hotspots, and extensions of internet service broadcast from neighborhood schools. The story reported that at the beginning of remote learning, schools could not confirm connectivity for approximately 120,000 students and emphasized that it was not sufficient to provide one device per home as every student needed a dedicated device to log in to online classes.⁷⁷

James Smith, a student from Elko enrolled in Great Basin College, told the Committee that rural Nevada has struggled with poor internet service for many years. He noted that his upload speed is so slow that it can take hours to submit assignments and that during live lectures his service often freezes. Mr. Smith said:

The frustration is absolutely felt. The way that internet affects school is insane. The fact that I am working on an assignment, and as soon as I turn it in, I cannot work on another assignment because I must wait for the internet to catch up. I have to wait hours at times because there’s just nothing else I can do that day.⁷⁸

⁷⁴ Jhone Ebert, Superintendent, Nevada State Board of Education, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, Mar. 3, 2021, transcript, p. 4 (hereafter cited as *3/3/21 Web Hearing*); Nevada Department of Education, Press Release: Connecting Kids Ensures 100% of Nevada’s Students Participating in Digital Learning Have Access to a Computer and the Internet at Home, Jan. 5, 2021, <https://connectingkidsnv.org/wp-content/uploads/2021/01/January-5-2021-Release.pdf>.

⁷⁵ Mitchell Testimony, *3/3/21 Web Hearing*, p. 12.

⁷⁶ Ibid.

⁷⁷ Calderon, Janelle. “Coalition: All of Nevada’s K-12 Online Students Are Connected Following Months of State and County Efforts.” *The Nevada Independent*, 5 Jan. 2021, <https://thenevadaindependent.com/article/coalition-all-of-nevadas-k-12-online-students-are-connected-following-months-of-state-and-county-efforts>.

⁷⁸ James Smith, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, Mar. 31, 2021, transcript, p. 23 (hereafter cited as *3/31/21 Web Hearing*).

Mr. Smith also commented on the cost of internet service in rural communities, noting that he pays almost \$100 a month for poor service, whereas in cities, service is cheaper.⁷⁹

Alex Gallegos, a student who lives in east Las Vegas, added:

I can't speak as much for the rural regions of the state, but I would agree and say that yes, a lot of students are frustrated. And from personal experience, I've heard students at my own school talking about how they can't have more than one tab open on their computers because otherwise it won't work.⁸⁰

Co-presenters Ms. Lynn Manning-John, Vice Principal, Owyhee Combined School, and Mr. Lance West, Principal, Schurz Elementary School, spoke about Native American reservation conditions. Ms. Lynn Manning-John lives on the Duck Valley Indian Reservation, while Mr. Lance West lives on the Walker River Paiute Reservation.⁸¹ In fact, despite what Connecting Kids Nevada is reporting, both said that many reservations still have no internet or cell service, and when available, both are often insufficient for education purposes.⁸²

Ms. Manning-John emphasized the importance of education for children on the reservation:

We in Duck Valley and Native American people in general, may be statistically insignificant and are often not included in state and national data, but the students of Owyhee Combined School represent 100% of the children of this community. The future of my tribe and community is entirely dependent upon the education they receive at Owyhee Combined School.⁸³

Additionally, Mr. West stated:

Despite strengths such as improved tribal internet connectivity and access for students here in our community, that the digital divide remains. Once funds associated with the pandemic are long gone, Indian education continues my school along with Lynn's school, up in Owyhee and other high needs student population schools in Nevada and around the country will continue with the business of doing our best to prepare students for college and careers after high school.⁸⁴

Dr. Vincent Richardson, educator at West Prep High School and member of the Clark County Education Association, explained that the digital divide is more than mere access to a device and internet service. He said:

When it comes to the digital divide, I like to explain it as those who have access to computer technology, such as broadband internet, computer literacy, and adequate computer devices, and

⁷⁹ Ibid., p. 17.

⁸⁰ Gallegos Testimony, *3/31/21 Web Hearing*, p. 23.

⁸¹ Lynn Manning-John, Vice Principal, Owyhee Combined School, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, May 5, 2021, transcript, p. 18 (hereafter cited as *5/5/2021 Web Hearing*); Lance West, Principal for Schurz Elementary, a public K-6 school located on the tribal lands of the Walker River Paiute, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, May 5, 2021, transcript, p. 21 (hereafter cited as *5/5/2021 Web Hearing*).

⁸² Manning-John Testimony, *5/5/2021 Web Hearing*, pp. 19-20; West Testimony, *5/5/21 Web Hearing*, pp. 21-2.

⁸³ Manning-John Testimony, *5/5/2021 Web Hearing*, p. 20.

⁸⁴ West Testimony, *5/5/21 Web Hearing*, p. 21.

those who do not have it. But it's much deeper than that. How many parents were computer literate to provide the assistance that their child needed? Now we see our current situation as information haves and information have-nots.⁸⁵

Rebecca Garcia, president, Nevada PTA, presented results from its statewide survey of families regarding education. The survey showed that 80 percent of families and educators reported internet connectivity issues and 51 percent had paid more for additional internet capacity. Approximately 40 percent of parents reported feeling unprepared to support their children's online learning.⁸⁶

Both Superintendent Ebert and Mr. Mitchell indicated in their testimony that the lack of sufficient internet service and devices in homes has been a known problem for some time, so it was not an issue that suddenly appeared due to the pandemic.⁸⁷ As was previously stated, Mr. Mitchell said that the Nevada Department of Education and the school districts knew the problem existed but had not prioritized it.⁸⁸

And Ms. Ebert stated that school officials were worried about the lack of devices and internet connectivity from the time schools closed. She stated, "Of course, equitable access to devices and connectivity were a major concern when the whole state shifted to distance learning last spring."⁸⁹

To know at the beginning of the pandemic that equitable access to devices and connectivity was going to be a problem, education leaders had to know that the problem existed before the pandemic started.

It was under the pandemic crisis that Nevada saw the first concerted effort to address the problem with federal emergency funding and contributions from a wide range of private business partners.⁹⁰ For example, the *Elko Daily Press* reported on March 25, 2021, that Nevada Gold Mining contributed \$30 million to expand internet service to rural towns in northeastern Nevada.⁹¹

Heather Gate, Vice President of Digital Inclusion for the nonprofit Connected Nation, testified that her organization has been working to connect every household to the internet since 2009. Connected Nation was founded to ensure that every family can access online resources related to medical, education, and communication services. As more occupations require proficiency in technology skills, Connected Nation strives to connect marginalized students with the resources needed to enter job fields with good pay and benefits. Ms. Gate stated she is now not worried that

⁸⁵ Richardson Testimony, *3/31/21 Web Hearing*, p. 10.

⁸⁶ Garcia Testimony, *5/19/21 Web Hearing*, p. 14.

⁸⁷ Ebert Testimony, *3/3/2021 Web Hearing*, p. 4.; Mitchell Testimony, *3/3/2021 Web Hearing*, pp. 12-3.

⁸⁸ Mitchell Testimony, *3/3/2021 Web Hearing*, pp. 12-3.

⁸⁹ Ebert Testimony, *3/3/2021 Web Hearing*, p. 4.

⁹⁰ Connecting Kids Nevada, <https://connectingkidsnv.org/partners/> Accessed Oct. 18, 2021.

⁹¹ Featherston, Suzanne. "High-Speed Internet Coming to Elko Area This Summer." *Elko Daily Press* [Elko Nevada], Mar. 25, 2021, https://elkodaily.com/mining/high-speed-internet-coming-to-elko-area-this-summer/article_0250e2ef-b84c-5234-a3c7-7cd9309ce69d.html.

enough money will be dedicated to addressing this gap, but instead over possible insufficient spending oversight. She worries funds could be squandered on sweetheart deals or consultants.⁹²

Ms. Gate urged the committee to consider digital equity as a civil rights issue as one-third of children from African American, Latino, and Indigenous households did not have access to broadband before the pandemic. Ms. Gate stated:

So prior to the COVID crisis, data showed that over 16 million kids did not have access to internet at home. And so it also showed that the racial gap in that, a third of kids from Black, Hispanic, and Indigenous households did not have access to broadband at all.⁹³

And she stated:

Digital equity should be recognized as a civil rights issue. Having segments of the community not able to meaningfully participate in a platform where everything is happening is a civil rights issue, and we should address it and deal with it as such.⁹⁴

She addressed the inclusion of people with disabilities and the achievement gaps and homework gaps that are based on race, geography, and ethnicity in her argument for considering digital equity as a civil rights issue.⁹⁵

Lack of Digital Literacy and Professional Development for Educators

Panelists brought a range of perspectives regarding access to a device and access to a device with proficiency in using the device to successfully engage in educational activities. Dr. Vincent Richardson stated that teachers often found themselves providing 100 percent online course content with little time to acquire the skills needed to be successful, and students and their families found themselves participating 100 percent through online courses with little time to acquire the skills needed to be successful in online classes.⁹⁶

Melody Rose, Chancellor of the Nevada System of Higher Education; Terry Norris, Director of E-Learning for the College of Southern Nevada; Sean Parker, Executive Director for Teach for America Las Vegas, and Brian Zeiszler, Professor at Great Basin College all discussed online education's unique pedagogy.⁹⁷ Pedagogy includes methods of teaching and course design and is acquired through professional development instruction. Mr. Parker noted that:

⁹² Heather Gate, Vice President of Digital Inclusion, Connected Nation, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, May 19, 2021, transcript, p. 22 (hereafter cited as *5/19/21 Web Hearing*).

⁹³ *Ibid.*, p. 5.

⁹⁴ *Ibid.*, p. 7.

⁹⁵ *Ibid.*

⁹⁶ Dr. Vincent Richardson, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, March 31, 2021, transcript, p. 12.

⁹⁷ Brian Zeiszler, Professor, Great Basin College, testimony, *Web Hearing Before the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, Apr. 21, 2021, transcript, pp. 6-9, (hereafter cited as *4/21/21 Web Hearing*); Rose Testimony, *3/3/21 Web Hearing*, p. 33-4; Norris Testimony, *3/3/21 Web Hearing*, pp. 39-41.

The disadvantage is that education is still a deeply human field. You build strength as an educator by being in relationship with people. And that is best done in-person. I cannot sugar coat it, it is best done in-person. I would much rather connect with you all in-person right now than I am on a WebEx platform. So the good thing was our teachers were seen as advanced, but still learning. There's advantage and disadvantages. Some of our first year teachers [and] second year teachers were leading PLCs [professional learning communities] in their school communities to transition to online learning environments. You don't necessarily want novice teachers leading professional development in a lot of respects. And so while they brought strengths to this space, there's just a lot that [has] changed [to] navigate, I just want to name that. And we saw some amazing things. There's a lot that's actually more possible online.⁹⁸

Dr. Richardson, a teacher at West Prep High School, raised the digital divide for teachers. He asked how many teachers even owned a computer at the beginning of distance learning and wondered if some had no internet access at home.⁹⁹

How many teachers were comfortable with asynchronous instruction with students? How many teachers knew how to adequately operate online education portals? How many students, K-6 team knew how to adequately operate online education portals? How many teachers, students, and families have adequate basic computer devices to include a working webcam, microphone, and speakers? How many teachers have broadband internet?¹⁰⁰

He stressed the need to provide technology literacy training to teachers, students, and parents simultaneously.¹⁰¹ Dr. Richardson also questioned how many teachers, students, and parents know how to use computerized tools such as Excel spreadsheets or Google documents.¹⁰² He reemphasized teaching instructors, students, and their parents' technology skills on a regular basis in the future.¹⁰³

Mr. Parker added that education administrators should embed mental health support into regular professional development opportunities as well. He stated:

One benefit of being virtual for us in our teacher training is that we were able to partner with the Yale Center for Emotional Intelligence . . . to bring world-renowned experts to teach our teachers about how do they regulate their own emotional state, because our teachers were overwhelmed in training.¹⁰⁴

⁹⁸ Parker Testimony, *4/21/2021 Web Hearing*, p. 15.

⁹⁹ Richardson Testimony, *3/31/21 Web Hearing*, p. 12.

¹⁰⁰ *Ibid.*, p. 13.

¹⁰¹ *Ibid.*, p. 12.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

¹⁰⁴ Parker Testimony, *4/21/21 Web Hearing*, p. 24.

Behavioral and Mental Health Issues

Stephanie Patton, President of the Nevada School Psychologists, spoke at length about addressing mental and behavioral health issues immediately.¹⁰⁵

Her recommendations included:

- **Raise awareness:** The leading cause of death among school age children is suicide;
- **Screen children:** Differentiate between typical stress and deeper mental illness;
- **Address learning disabilities:** Provide required services as soon as possible;
- **Promote resilience:** Model healthy responses to possible future disruptions;
- **Connect families:** Facilitate access to behavioral health specialists; and
- **Consider social justice:** View disruptive behavior through a social justice lens.¹⁰⁶

Ms. Patton's top recommendation is to improve the ratio between the number of mental health personnel in each school and the number of children being served.¹⁰⁷ She also highlighted the potential cost for hiring personnel in Nevada schools:

Here's just an idea of the positions that we need and the potential cost, if we're estimating an average of \$85,000 per position. School psychologists were down 649 positions, 819 counselors, 1,395 social workers and 298 nurses. And I did want to point out that these are numbers that do not include our charter schools. So really those numbers are higher.¹⁰⁸

Recognizing that the pandemic is putting many families through long-term hospitalizations and at times subjecting them to devastating deaths, as well as affecting parents who have lost jobs and those who are relying on their older children to manage younger siblings, Ms. Patton stressed the need to address traumas through therapeutic, broad-based social and emotional activities for all students.¹⁰⁹

Solely providing that social-emotional support in a traditional one-on-one or small group counseling model is really not an option anymore. It was already difficult when we're looking at 20% of students, but if we're looking at 30, 40, 50% of students, who are going to need social-emotional support, we really run the risk of quickly becoming overwhelmed with our mental health support providers and exhausting those supports. If we're trying to do one-on-one for all these kids or even small group counseling model, we're just not going to be able to do that. We have to really take that into consideration.¹¹⁰

¹⁰⁵ Patton Testimony, *3/31/21 Web Hearing*, pp. 7-8.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid., p. 8.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid., pp. 7-8

¹¹⁰ Ibid.

According to the National Association of School Psychologists, Nevada’s current ratio of school psychologists to students is 1 to 2,087.¹¹¹ In April 2020, the Nevada Board of Education adopted recommended ratios for school mental and behavioral health personnel in line with national recommendations.¹¹² They recommend one school psychologist for every 500 students, one counselor for every 250 students, one social worker for every 250 students, and one school nurse for every 750 students.¹¹³ This aligns with recommendations from national mental health organizations.¹¹⁴ But, Ms. Patton stated that ratios cannot be met without more mental health professionals, including psychologists, counselors, social workers, and nurses:

One of our biggest recommendations is to improve these ratios. We really need to continue work to improve the number of mental health providers, including psychologists, counselors, social workers, and nurses. We have to ensure that districts are creating those strategic plans to address those shortages.¹¹⁵

She explained that the school districts are creating strategic plans to address those shortages by creating programs that will develop our workforce pipelines.¹¹⁶

In response to a question about the number of bilingual school psychologists, Ms. Patton stated:

I know that we, unfortunately, only have about a handful in my district with Clark County School District who are bilingual. And even that does create some additional challenges because due to our shortages every school psychologist is already covering multiple schools. And those bilingual school psychologists actually have additional caseloads because they are also helping to determine whether language acquisition is playing a part in a student's academic profile. So before, at each school level, before we would refer a student for assessment or evaluation for a disability, we would want to rule out that second language acquisition isn't what is causing those academic difficulties. So we would not want to immediately suspect a learning disability if a student is still learning English and that is really what is maybe impacting their reading.¹¹⁷

Mr. Gallegos added: “Another huge component of this is representation and diversity among social workers and psychologists that are provided to students.” He stressed the need to have mental health personnel available to students when needed.¹¹⁸

¹¹¹ “Shortage of School Psychologists.” *National Association of School Psychologists*, www.nasponline.org/research-and-policy/policy-priorities/critical-policy-issues/shortage-of-school-psychologists. Accessed 2 Sept. 2021.

¹¹² Nevada Department of Education, “Nonbinding Recommended Ratios for Specialized Instructional Support Personnel (SISP),” April 30, 2020, https://doe.nv.gov/uploadedFiles/ndedoenvgov/content/Boards_Commissions_Councils/State_Board_of_Education/2020/April/Follow-upSISPRatiosperSB%2089.pdf Accessed Oct. 18, 2021

¹¹³ Ibid.

¹¹⁴ “Shortage of School Psychologists.”

¹¹⁵ Patton Testimony, *3/31/21 Web Hearing*, pp. 7-8.

¹¹⁶ Ibid.

¹¹⁷ Ibid., p. 24.

¹¹⁸ Gallegos Testimony, *3/31/21 Web Hearing*, p. 18.

Panelists' testimony aligned with reporting that long-standing issues with behavioral and mental health problems across all school districts were worsened by the pandemic.¹¹⁹ Superintendent Ebert reported that the State Office of Education has taken some action on mental health issues through the Office of Respectful Learning, which received a \$10.3 million grant for school-based mental health support in partnership with the Nevada System of Higher Education and the mental health professional associations.¹²⁰

In a letter to U.S. Department of Health and Human Service Secretary Xavier Becerra and U.S. Department of Education Secretary Miguel Cardona, U.S. Senator Catherine Cortez Masto also noted that not all schools and districts are equipped to work on these complex mental and behavioral health issues and meet the unique needs of today's students. Many suffer from drastic shortages of counselors, social workers, and psychologists to work with students, even under normal circumstances. They will need robust assistance from community-based service providers and healthcare advocates.¹²¹

Language Barriers

Many school-age children in Nevada are bilingual or emergent bilingual learners. According to a *Nevada Independent* story on June 11, 2021, about 16 percent of students in Clark County School District are classified as English language learners.¹²²

In fact, Clark County is currently designated as a minority-majority county, which necessitates written materials be sent to parents in languages other than English. This mandate came in the 2021 legislative session when legislators passed Assembly Bill 195, which requires Nevada's school districts to determine the prevalent languages spoken by students and their families. The school districts must provide information in at least English, Spanish, and Tagalog.¹²³

Ms. Silvina Jover, social studies teacher at Desert Pines High School, teaches bilingual classes and was very worried about emergent bilingual learners. She noted that some children live in families

¹¹⁹ Erickson, Briana. "Nevada Faces Federal Investigation over Treatment of Kids with Behavioral Issues." *The Las Vegas Review Journal* [Las Vegas Nevada], 10 Feb. 2021, www.reviewjournal.com/news/politics-and-government/nevada/nevada-faces-federal-investigation-over-treatment-of-kids-with-behavioral-issues-2277833.

¹²⁰ Ebert Testimony, 3/3/21 *Web Hearing*, p. 6.

¹²¹ Cortez Masto, Catherine. "Letter to Department of Health and Human Services and the Department of Education." *Letter to Department of Health and Human Services and the Department of Education*, 6 Apr. 2021, www.cortezmasto.senate.gov/imo/media/doc/21.04.06%20CCM%20Letter%20to%20HHS%20and%20Ed.pdf.

¹²² Valley, Jackie. "Clark County School District Proposes Dual Language Program, Drawing Skepticism about Sustainability." *The Nevada Independent* [Nevada], 11 June 2021, <https://thenevadaindependent.com/article/clark-county-school-district-proposes-dual-language-program-drawing-skepticism-about-sustainability>.

¹²³ Clark County School District, Assembly Bill 195, English Language Learner Division, <https://ccsd.net/parents/resources/pdf/English-Learner-Pupil-and-Parental-Rights.pdf>; Nevada 81st Legislative Session, Assembly Bill 195 <https://www.leg.state.nv.us/App/NELIS/REL/81st2021/Bill/7586/Text> Accessed Oct. 18, 2021.

with varying proficiency in English and can have problems if information going to parents and guardians is not easily available in translated versions.¹²⁴

Mr. Gallegos relayed similar concerns, testifying that his cousin and other students faced challenges when asking for help from family members who have limited proficiency in English, and that seeking help is not a problem when students are in a school setting. He added:

I fear that this is a problem many other families are possibly experiencing, which is certainly an issue of equity or lack thereof. It places additional stress on families whose primary language is not English at home and whose household may be fraught generationally with language barriers. In the same vein, we should ask if these families and students who are English language learners are given equitable access to school psychologists, social workers, and other mental health resources that are able to communicate with them and make them feel comfortable in their own language.¹²⁵

Mr. Athar Haseebullah, Executive Director for ACLU of Nevada, testified about the over-representation of students of color in Nevada's 168 low-performing schools.¹²⁶ Over 80 percent of students in the one- and two-star schools in Nevada¹²⁷ were students of color, and nearly 87 percent of those students qualified for free and reduced lunch.¹²⁸ The federal government requires each state to create a system of rating school performance.¹²⁹ Nearly a quarter of students in one-or-two-star schools were English language learners.¹³⁰ Reviewing the racial breakdown in these schools further, he found a population that is heavily Hispanic and Black, where only 14 percent of students are white.¹³¹

According to a story in the *Hechinger Report*, English language learners appear to have been disproportionately affected by a lack of access to technology, diminishing the ability of schools and educators to communicate expectations and deliver content to students and their families.

¹²⁴ Jover Testimony, *4/21/21 Web Hearing*, pp. 16-18; MacNeil, Sara. "Distance Learning Presents New Challenges for CCSD's English Language Learner Division." *The Las Vegas Sun* [Las Vegas Nevada], Sept. 13 2021, <https://lasvegassun.com/news/2020/sep/13/distance-learning-presents-new-challenges-for-ccsd/>.

¹²⁵ Gallegos Testimony, *3/31/2021 Web Hearing*, p. 15.

¹²⁶ Haseebullah Testimony, *5/5/2021 Web Hearing*, p. 3.

¹²⁷ Nevada rates schools from one to five stars based on factors including proficiency rates in English and math, graduation rates, student academic growth and chronic absenteeism. See Nevada Department of Education's School Performance Framework: <https://doe.nv.gov/Accountability/NSPF/>.

¹²⁸ Haseebullah Testimony, *5/5/2021 Web Hearing*, pp. 3-4.

¹²⁹ Every Student Succeeds Act (ESSA), 20 U.S.C. § 6311; see also The Education Trust, "The Every Child Succeeds Act: What's in it? What does it mean for equity?", Jan. 2016, <https://edtrust.org/wp-content/uploads/2014/09/What-is-in-ESSA-Public-Reporting.pdf>.

¹³⁰ Nevada's School Rating System, <http://nevadareportcard.nv.gov/DI/MoreDownload?filename=Nevadas%20School%20Rating%20System.pdf>. Accessed 9 Aug. 2021.

¹³¹ Haseebullah Testimony, *5/5/2021 Web Hearing*, p. 3.

Limited internet connectivity, device access, and data limits were compounded by language barriers that prevented families from understanding how to access web-based instruction.¹³²

Possibility of Learning Loss

Ms. Patton spoke about potential learning loss due to the abrupt transition into distance learning and stressed the seriousness of the issue. She discussed the need to carefully assess learning loss to determine, with some precision, the amount, and types of learning loss before drawing conclusions. Further, she stated that schools need to begin immediately engaging in classroom remediation strategies to address social and emotional learning needs and basic skills training deficits. Ms. Patton emphasized the need to move expeditiously to avoid wasting precious time and mitigate harm to children. Allowing mental health issues to go untreated while assessing learning loss could lead to severe outcomes, including suicide.¹³³

Mr. Lance West, principal for Schurz Elementary, a public K-6 school located on the tribal lands of the Walker River Paiute and an enrolled member of the Pyramid Lake Paiute Tribe, stated that, while local K-6 students attended a combination of online and in-class schooling, a large majority of Walker River Paiute tribal 7-12th grade students attend Mineral County School District as full-time distance learners.¹³⁴ In his opinion:

The entire first semester was a waste [for secondary students]. A majority of our 7th through 12th grade distance learners will have to take summer school and even retake a course at the start of the new school year to be current in high school credit.¹³⁵

Mr. West blamed a lack of communication between schools and households, a lack of student and teacher training, and a lack of educational resources for the lost time.¹³⁶

Erin Phillips, President of Power2Parent, also testified that in the first weeks of school, Black and Hispanic students were disproportionately missing or uncontacted. Black students represent 15 percent of the student body in Clark County School District, and Hispanic students represent 47 percent of the student body in Clark County School District. In the first two weeks of school in fall of 2020, almost 24 percent of Black students and 53 percent of Hispanic students were considered missing or remained uncontacted. It is unclear how this may disproportionately harm Black and Latino/a students.¹³⁷

Dr. Vincent Richardson shared that while educators figured out acceptable teaching-at-home processes, we must also address the issue of student homelessness. As an example, he, along with his assistant principal, conducted a home visit to check on the welfare of a middle school student

¹³² Salman, Javeria. "A Parent-Led Effort to Close the Digital Divide." *The Hechinger Report*, 24 Sept. 2020, <https://hechingerreport.org/a-parent-led-effort-to-close-the-digital-divide/>.

¹³³ Patton Testimony, 3/31/2021 Web Hearing, p. 4.

¹³⁴ West Testimony, 5/5/2021 Web Hearing, p. 21.

¹³⁵ Ibid., p. 22.

¹³⁶ Ibid.

¹³⁷ Phillips Testimony, 5/19/21 Web Hearing, pp. 8-9.

who was in a conflict with other students online. When they arrived at the house, it was in disarray. The mother explained to them that she was originally living in a homeless shelter with her children prior to moving into government-assisted living quarters. Reflecting on this circumstance, Dr. Vincent posed the question, “Where would a homeless student set up to learn virtually?”¹³⁸

Testimony also emphasized that high-quality pedagogy training and collaboration among instructors and education administrators was vital to ensuring student success. Terri Norris, Director of E-Learning at the College of Southern Nevada, stated that research shows that the development of a user-friendly learning management system and accessible course design can have an impact on student success in the online environment.¹³⁹

Access for Students with Disabilities

Ms. Patton and Ms. Melissa Almanza, an autism services advocate, testified about the availability of educational services for students with disabilities and expressed pessimism over whether students with disabilities received required services.

Ms. Patton testified that compelling anecdotal evidence shows that many students who normally receive specialized disability services have not consistently received those accommodations since schools transitioned to distance learning. Many accommodations did not have an online equivalent that could achieve the same result as traditional student support services offered to students with disabilities. Thus, students with disabilities were not receiving needed support services. Even where equivalent online services were available, other issues—such as lacking internet connectivity—often caused the service to not be delivered.¹⁴⁰

Ms. Almanza stated, “Our kids with autism typically need high levels of practice, actual social skills instruction facilitation with peers, and repetitive practice.”¹⁴¹

According to the Department of Education, students with disabilities should have their needs targeted as soon as possible to prevent permanent harm.¹⁴²

Federal funds allocated to address pandemic education problems can be directed to bolster the range of services available to remediate any issues among disabled students caused by isolation during the pandemic lockdown.¹⁴³

¹³⁸ Richardson Testimony, *3/31/21 Web Hearing*, pp. 11-2.

¹³⁹ Norris Testimony, *3/3/21 Web Hearing*, p 26.

¹⁴⁰ Patton Testimony, *3/31/2021 Web Hearing*, pp. 5-6.

¹⁴¹ Almanza Testimony, *5/5/21 Web Hearing*, p. 15.

¹⁴² U.S. Department of Education, July 1, 2021, “U.S. Department of Education Releases More Than \$3 Billion in American Rescue Plan Funds to Support Children with Disabilities,” <https://www.ed.gov/news/press-releases/us-department-education-releases-more-3-billion-american-rescue-plan-funds-support-children-disabilities> Accessed Oct. 18, 2021.

¹⁴³ “American Rescue Plan Signed into Law; Includes Funding for Students with Disabilities.” *Council for Exceptional Children*, <https://exceptionalchildren.org/blog/american-rescue-plan-signed-law-includes-funding-students-disabilities>. Accessed 2 Sept. 2021.

From a legal perspective, Mr. Haseebullah commented on the potential for civil rights violations due to a lack of appropriate education services, especially for students with disabilities and students at Title I schools who receive free or reduced breakfast and lunch.¹⁴⁴

According to Ms. Patton, children from impoverished areas and from racial or ethnic minority populations are often targeted for overly harsh disciplinary practices, including suspensions, expulsions, and arrests for simple, minor offenses. Many of these children are in special education programs with various learning and behavioral disabilities. There is a long history of systemic underinvestment and childhood trauma among these populations, so these students could benefit from extra counseling and psychological support.¹⁴⁵

However, as Dr. Katie Dockweiler, school psychologist and member of the Nevada State Board of Education, shared in written testimony, to sustainably improve outcomes for Nevada's students there should be support:

to design and implement ratio improvement plans to meet the designated recommended ratios established by the Nevada State Board of Education under Senate Bill 89(2019), for school psychologists---it is 1 school psychologist to every 500 students.¹⁴⁶

Dr. Donald Easton-Brooks, Dean of Education at the University of Nevada Reno, also commented on this dire problem, "There's a level of understanding in the disability community that we haven't even touched on in our state that [could] help us understand exactly what you're talking about. It is a workforce development crisis."¹⁴⁷

Public/Private Partnerships

Testimony underscored the importance of partnerships in smoothly pivoting to distance learning to help educators with the goal of student success. Superintendent Ebert noted that, because of public-private partnerships, Nevada was the only state in the nation able to provide a device and a means for connectivity, such as a "hotspot," for students who needed one or both.¹⁴⁸ In addition, the Nevada Department of Education developed a digital learning collaborative to provide high quality content that had "a lens of diversity and equity," provided in multiple languages for parents, teachers, administrators, counselors, and students, and across the state for professional development, curriculum creation, and access to best practices for distance learning, and more.¹⁴⁹

¹⁴⁴ Haseebullah Testimony, *5/5/21 Web Hearing*, pp. 4-5.

¹⁴⁵ Patton Testimony, *3/31/2021 Web Hearing*, pp. 5-6.

¹⁴⁶ Katie Dockweiler Written Testimony, p. 1.

¹⁴⁷ Easton-Brooks Testimony, *5/5/21 Web Hearing*, pp. 31.

¹⁴⁸ Ebert Testimony, *3/3/21 Web Hearing*, pp. 4-5; *see generally*, "Elementary and Secondary School Emergency Relief Fund." *Office of Elementary and Secondary Education*, <https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/>. Accessed 2 Sept. 2021.

¹⁴⁹ *Ibid.*

Superintendent Ebert also spoke about the Teacher Advisory Cabinet, a group of educators directly working with students; she met with them weekly to learn about issues affecting various student groups. It was through this Cabinet that the Nevada Department of Education knew to expand technological resources to families as one device was insufficient for many.¹⁵⁰

She further explained that developing partnerships with higher education institutions was a key to successfully obtaining a grant for improving behavioral health services via recruitment, retention, and re-specialization of school counselors, school psychologists, school social workers, and other school mental health providers. This will increase the ratio of school-based mental health professionals to the number of students and will strengthen the school mental health workforce.¹⁵¹

Superintendent Ebert credited Chancellor Melody Rose for connecting her to the higher education institutions and helping with grant funding.¹⁵²

Chancellor Melody Rose stated that by combining partnerships and best practices in teaching, Chancellor Rose remarked that we can build a 21st-century workforce to help Nevada compete in an increasingly complex and connected world.¹⁵³

Access to Childcare

Panelists who are educators and administrators spoke about why some students disappeared after moving to distance learning or who experienced tremendous difficulty completing course work. The top reason discussed was the lack of available and affordable childcare, which families lost access to after the pandemic lockdown began. Job loss after the lockdown was not universal, so not every family had a parent at home to assist with childcare and distance learning. Many essential workers worked more hours, and parents working more hours often relied on their older children to watch younger siblings, which made it difficult for older children to focus on their own online classes and coursework.

Ms. Garcia stated:

I mean it impacted distance learning, but the hybrid schedule actually was more of a pressure point for families when it came to childcare, because that whole idea of two days on or four half days or five half days, or that type of thing, because you have to figure out how to pick up your child, how are you going to do the before and the aftercare?¹⁵⁴

Ms. Phillips contributed:

¹⁵⁰ Ebert Testimony, *3/3/21 Web Hearing*, p. 8.

¹⁵¹ Ibid.

¹⁵² Ibid., p. 6.

¹⁵³ Rose Testimony, *3/3/21 Web Hearing*, p. 22.

¹⁵⁴ Garcia Testimony, *5/19/2021 Web Hearing*, p. 19.

I also think what you're talking about decoupling childcare and this idea of educators being babysitters, I do agree that we really need more flexibility.¹⁵⁵

Ms. Gate followed up:

We are back to I think 1988 numbers in terms of women in the workplace. And some of those women will opt-out [I]realized it's cheaper for me to stay home with the kids than [to] pay for childcare in-travel commute an hour to work. And I know right now the discussion around people not wanting to go back to work is probably this discussion about all this money being available. I don't know that it's the only answer, [but] I do think people are reevaluating their lives.¹⁵⁶

Ms. Gates also stated that a lack of childcare caused parents to experience mental health distress that hurt family dynamics and disrupted the usual support structures for their children.¹⁵⁷

Dr. Easton-Brooks noted that parents of color want to be engaged in their children's education, but owing to limited resources, they must work. In addition, many parents of color fall into the category of "essential employees," meaning they are needed at their jobs in person.¹⁵⁸

Choice

Two panelists, Ms. Phillips and Ms. Garcia, testified about the concept of "school choice" and discussed whether public funding should go to charter schools.¹⁵⁹ Nevada allocates public funds to registered charter schools through its Public Charter School Authority, so federal relief funding will be allocated to those schools as well.¹⁶⁰

Also included in the discussion was whether some parents will want to keep their children in fully online distance education. It was noted that not all children had a negative experience with distance learning; some have done better for a wide range of reasons.¹⁶¹

As Clark County School District schools reopened for the fall COVID-19 outbreaks spiked and parents are enrolling their children in the one fully online school in massive numbers. This underscores the need to maintain an online distance learning option for parents who choose to not send their children to in-person classes at neighborhood schools.¹⁶²

¹⁵⁵ Phillips Testimony, 5/19/2021 Web Hearing, p. 20.

¹⁵⁶ Gate Testimony, 5/19/2021 Web Hearing, p. 20.

¹⁵⁷ Ibid.

¹⁵⁸ Easton-Brooks Testimony, 5/5/21 Web Hearing, pp. 19-20.

¹⁵⁹ Phillips Testimony, 5/19/2021 Web Hearing, pp. 8-12; Garcia Testimony, 5/19/2021 Web Hearing, p. 19.

¹⁶⁰ "Charter Schools." *State of Nevada Department of Education*, https://doe.nv.gov/Charter_Schools/. Accessed 2 Sept. 2021.

¹⁶¹ Gate Testimony, 5/19/2021 Web Hearing, pp. 16-20.

¹⁶² Wooten, Julie. "Online Enrollment Surges at CCSD in Early Days of School Year." *Las Vegas Review-Journal* [Las Vegas Nevada], 24 Aug. 2021, www.reviewjournal.com/local/education/online-enrollment-surges-at-ccsd-in-early-days-of-school-year-2425831.

Related to this question is the larger issue of not going back to ignoring all the problems that became much worse during the pandemic. Panelists rejected any assumption that we will not face another pandemic. Superintendent Ebert noted that after finally investing millions of dollars to address some long-standing problems, such as the digital divide, and with more funding arriving in the state, to not fully address these problems now, head on would be a devastating mistake for the state.¹⁶³

FINDINGS AND RECOMMENDATIONS

Among their duties, advisory committees of the Commission are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.

Below, the Committee offers to the Commission a summary of its findings identified throughout the Committee's inquiry.

Findings

1. Problems happening now have been known for many years and are being exacerbated by the pandemic. There was agreement among panelists that we must solve these issues now to address the current harm and to ensure we do not have these problems again when the next emergency happens.¹⁶⁴
2. Connecting Kids Nevada reported that all Nevada students now have an adequate computing device for education purposes and access to the internet; yet the Committee heard testimony from students, teachers, and community leaders that internet connectivity is a continuing problem and a severe problem for many disadvantaged populations. This problem is a potential civil rights issue and so must be addressed for every community statewide.¹⁶⁵
3. Training and professional development services were provided to teachers yet teaching remotely with technology requires intense training in both use of technology and online pedagogy. There was not enough time for teachers to become competent in both areas before moving to offer distance learning.¹⁶⁶

¹⁶³ Ebert Testimony, *3/3/2021 Web Hearing*, pp. 9-10.

¹⁶⁴ *Ibid.*

¹⁶⁵ Ebert Testimony, *3/3/2021 Web Hearing*, pp. 7-8.

¹⁶⁶ Norris Testimony, *3/3/2021 Web Hearing*, pp. 52-3.

4. It is urgent to address mental and behavioral health concerns as soon as possible as waiting could lead to dire consequences. The first step to this problem must be addressing Nevada's severe shortages of mental and behavioral health professionals.¹⁶⁷
5. Children are impacted by family circumstances, so wrap-around services for families must be made available.¹⁶⁸
6. Behavioral and mental health workforce development must ensure our professionals come from diverse backgrounds. People experiencing intense stress and trauma need to speak to someone who can relate to their experiences.¹⁶⁹
7. It is unclear whether students with disabilities have received required services during the lockdown. There are concerns that services are either absent or insufficient.¹⁷⁰
8. Students have experienced learning loss due to a range of reasons, but it is not clear how much or what types of learning loss. It will be important to treat mental health issues, family circumstances, and learning loss concurrently because each is a serious interrelated problem.¹⁷¹
9. Parents who are essential workers often lacked access to childcare services and relied on older children to care for younger siblings, so those older children often disappeared from school.¹⁷²
10. Emergent English language learners had additional difficulties adapting to distance learning due to a lack of information being provided to their families in a native language.¹⁷³
11. Nevada navigated the abrupt transition to complete distance learning in large part due to public-private partnerships. Our business community quickly mobilized to work hand in hand with governing officials to address the digital divide.¹⁷⁴
12. Nevada school districts should offer distance education as a choice for parents and students permanently. With the ongoing pandemic and now some families feeling their children do

¹⁶⁷ Patton Testimony, *3/31/2021 Web Hearing*, pp. 7-8.

¹⁶⁸ Ibid.

¹⁶⁹ Easton-Brooks Testimony, *5/5/2021 Web Hearing*, pp. 60-1.

¹⁷⁰ Garcia Testimony, *Web Hearing 5/19/2021*, pp. 31-2.

¹⁷¹ Patton Testimony, *3/31/2021 Web Hearing*, pp. 7-8.

¹⁷² Garcia Testimony, *5/19/2021 Web Hearing*, p. 21.

¹⁷³ Jover Testimony, *4/21/2021 Web Hearing*, pp. 16-7.

¹⁷⁴ Mitchell Testimony, *3/3/2021 Web Hearing*, pp. 21-4.

better in distance learning classes, having the choice to continue with the distance learning modality should exist permanently.¹⁷⁵

13. The Committee’s Native American panelists reported a lack of access to internet services and a lack of prompt communication from their school districts.¹⁷⁶
14. The Committee’s rural panelists reported poor quality internet service that impact the ability of students to engage in online classes and to upload assignments in a timely manner.¹⁷⁷

Recommendations

1. The Commission should send this report and issue recommendations to the Nevada Governor to:
 - a. Coordinate with the appropriate elected and appointed leaders to concurrently address:
 - 1.) Nevada’s insufficient broadband internet infrastructure; and
 - 2.) The dire shortage of behavioral and mental health providers and services.
 - b. Fully fund SB89 from 2019 to meet the nationally recognized ratios of behavioral and mental health providers to students.
 - c. Coordinate between elected and appointed leaders who make decisions that impact Native American students to ensure Native American leaders are included in those decisions.
 - d. Ensure that if separate solutions for reservations, rural towns and cities, and urban areas are needed to fully address education inequities caused by the pandemic, Nevada’s leaders must create separate solutions. No student should go without access to:
 - 1.) High-quality internet service;
 - 2.) An adequate computing device for education purposes that is internet enabled;
 - 3.) Technology assistance;
 - 4.) Culturally appropriate mental and behavioral health services; and

¹⁷⁵ Sara MacNeil, “One third of CCSD Parents Might Choose Online-School Only the Fall, Here’s Why,” *Las Vegas Sun*, Accessed 8 Sept. 2021.

¹⁷⁶ West Testimony, *5/5/2021 Web Hearing*, pp. 44-7.

¹⁷⁷ Smith Testimony, *3/31/2021 Web Hearing*, pp. 31-3.

5.) Adaptive approaches to learning.

2. The Commission should send this report and issue recommendations to the County Commission Chairs and Municipal Mayors to:
 - a. Partner with private industries to act promptly to create and implement plans for disbursing funding for internet service expansion; and
 - b. Ensure every household has access to high quality internet service.
3. The Commission should send this report and issue recommendations to the Nevada Department of Education to:
 - a. Partner with the county school superintendents and the Nevada System of Higher Education to create distance education professional development for K12 teachers; and
 - b. Create mentoring relationships between higher education faculty who are veteran distance learning instructors and K12 teachers.
4. The Commission should send this report and issue recommendations to each Nevada school district superintendent and school board of trustees' president to:
 - a. Create training opportunities for students and families to learn how to use distance learning devices and education software;
 - b. Ensure training and education materials are in languages spoken at home;
 - c. Ensure students with disabilities who are engaged in distance learning are receiving all legally required services;
 - d. Create mechanisms for families who are homeless and interfacing with social services and who have children in distance learning to stay connected to schools;
 - e. Provide permanent options for distance learning for families who feel their children do better through online education;
 - f. Provide asynchronous distance education classes to meet the needs of students who must help their families with childcare due to a lack of services because of the pandemic;
 - g. Provide culturally appropriate social and emotional learning opportunities;
 - h. Aggressively address precursors, such as poverty, to the school-to-prison pipeline through early interventions and preventative support;
 - i. Empower educators to develop strategies for identifying and addressing learning loss;

- j. Invest relief funding to hire extra help, possibly retired teachers, who can assist in assessing students for skill and content learning loss; and
 - k. Involve school mental and behavioral health professionals in differentiating between learning loss and trauma related to the pandemic.
5. The Commission should send this report and issue recommendations to the Nevada System of Higher Education Board of Regents to:
- a. Create additional capacity in existing workforce development programs for behavioral and mental health professions including:
 - 1.) Developing stacked degree¹⁷⁸ and pipeline programs;
 - 2.) Aligning state licensing with these stacked degrees; and
 - 3.) Expanding higher education offerings to support these degrees.
 - b. Support school districts as they work to design and implement ratio improvement plans to meet the designated recommended ratios established by the Nevada State Board of Education under Senate Bill 89 (2019). For school psychologists, it is 1 school psychologist to every 500 students.

¹⁷⁸ Stackable degrees consist of shorter certifications and degrees awarded. Example: A student in a mental health program with a stackable degree would earn a certificate after one-year or 30 credits. The student could take that certificate to apply for entry-level positions in a behavioral health workplace. The student can then complete the second year or another 30 credits to earn an associate degree. The whole degree program in this field is divided into one-year completions that translate into promotions and higher pay with each certification or degree earned.

APPENDIX

March 3, 2021 Agenda, Presentation Slides, Web Hearing Recording, and Transcript

March 31, 2021 Agenda, Presentation Slides, Web Hearing Recording, and Transcript

April 21, 2021 Agenda, Presentation Slides, Web Hearing Recording, and Transcript

May 5, 2021 Agenda, Presentation Slides, Web Hearing Recording, and Transcript

May 19, 2021 Agenda, Presentation Slides, Web Hearing Recording, and Transcript

Written Testimony

Katie A. Dockweiler, Ed.D, Member of Nevada State Board of Education and Director of Government for the Nevada Association of School Psychologists

Mary Johnson, Founder and Executive Director of Parent U-turn

Materials can be found here:

https://securisync.intermedia.net/us2/s/folder?public_share=409J0xbKeIQ2vuMJBvQond0011ef58&id=L05WL0NPVklEIGFuZCBFZHVjYXRpb24%3D

**Nevada Advisory Committee to the
United States Commission on Civil Rights**



U.S. Commission on Civil Rights

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