

UNEDITED

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, APRIL 11, 2025

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The Commission convened at 1331 Pennsylvania Avenue NW, Suite 1150, Washington D.C. and via Videoconference at 10:00 a.m. EDT, Rochelle Garza, Chair, presiding.

PRESENT:

- ROCHELLE GARZA, Chair
- VICTORIA NOURSE, Vice Chair
- J. CHRISTIAN ADAMS, Commissioner
- STEPHEN GILCHRIST, Commissioner
- GAIL HERIOT, Commissioner
- PETER N. KIRSANOW, Commissioner
- MONDAIRE JONES, Commissioner
- GLENN MAGPANTAY, Commissioner

- MARIK XAVIER-BRIER, Acting Deputy Staff Director

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STAFF PRESENT:

DONALD BATES, Webex Producer
PAMELA DUNSTON, Chief, ACSD
DAVID GANZ, Parliamentarian
TINALOUISE MARTIN, Director, OM
DAVID MUSSATT, Director, RPCU
JULIAN NELSON
ESSENCE PERRY
ANGELICA RORISON, Director, PAU
MICHELE YORKMAN-RAMEY

COMMISSIONER ASSISTANTS PRESENT:

NATHALIE DEMIRDJAIN-RIVEST
ALEXIS FRAGOSA
JOHN K. MASHBURN
CARISSA MULDER
THOMAS SIMUEL
IRENA VIDULOVIC
STEPHANIE WONG
YVESNER ZAMAR

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P-R-O-C-E-E-D-I-N-G-S

(9:35 a.m.)

MR BATES: Good day and welcome to the U.S. Commissions on Civil Rights monthly business meeting. Today's conference is being recorded. At this time, I would like to turn the conference over to Chair Rochelle Garza. Please go ahead.

CHAIR GARZA: Good morning everyone. We're going to go ahead and get started. This business meeting of the U.S. Commission on Civil Rights comes to order at 10:05 a.m., Eastern Time, on Friday, April 11, 2025.

The meeting is taking place at the Commission's headquarters, located at 1331 Pennsylvania Avenue, NW, Washington, DC. I'm the Chair of the Commission, Rochelle Garza.

I'd like to start with the roll call. So, please confirm your presence when I say your name. Vice-Chair Nourse?

VICE CHAIR NOURSE: Present.

CHAIR GARZA: Commissioner Adams?

COMMISSIONER ADAMS: Present.

CHAIR GARZA: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: I'm present.

CHAIR GARZA: Commissioner Heriot?

1 COMMISSIONER HERIOT: I'm here.

2 CHAIR GARZA: Commissioner Jones?

3 COMMISSIONER JONES: Present.

4 CHAIR GARZA: Commissioner Kirsanow?

5 COMMISSIONER KIRSANOW: Here.

6 CHAIR GARZA: Commissioner Magpantay?

7 COMMISSIONER MAGPANTAY: I'm here. Good
8 morning.

9 CHAIR GARZA: Good morning. Everyone is
10 present based on that roll call. We have a full
11 quorum. Is the court reporter present?

12 THE COURT REPORTER: Yes, ma'am.

13 CHAIR GARZA: Yes, the court reporter is
14 present, has indicated they're present. Is the
15 acting staff director present? The acting staff
16 director has indicated he is present. Is the
17 parliamentarian present?

18 MR. GANZ: I'm present, yes.

19 CHAIR GARZA: The parliamentarian has
20 indicated he is present.

21 I. APPROVAL OF AGENDA

22 CHAIR GARZA: Okay, so now we're going
23 to go ahead and proceed with today's agenda as
24 posted on the Federal Register.

25 Today we're going to consider the

1 uncovering inequality and recommending actionable
2 solutions, is crucial for promoting justice and
3 equality across our nation.

4 We are grateful to have the chairs of
5 these committees as our guests to present upon the
6 text of the reports that have been voted upon by a
7 majority of their committees.

8 So, up first we're going to go ahead and
9 hear from our DC Advisory Committee Chair Wayne
10 Heard, who's on the Committee's Report Accessing
11 Services for Students with Disabilities in DC Public
12 Schools.

13 Thank you, Chair Heard, for being here
14 with us today. And whenever you're ready, you can
15 go ahead and begin.

16 MR. HEARD: Thank you all. Good
17 morning. I'm Wayne Heard and I'm Chair of the
18 Washington DC Advisory Committee to the U.S.
19 Commission on Civil Rights.

20 Today, I'll be presenting our findings
21 from our report, Accessing Services for Students
22 with Disabilities in DC Public Schools.

23 This report was completed and voted upon
24 by the Committee November 21, 2024, and our
25 committee decided to study special education access

1 special education services, starting with the
2 Individuals with Disabilities Act, or the IDEA.

3 The IDEA mandates that any state or
4 public agency receiving federal funds must ensure
5 that every child with a disability in their state
6 has the right to a free, appropriate public
7 education, in the least restrictive environment.

8 When passed in 1975, Congress promised
9 to allocate forty percent of federal funding for
10 states that agree to follow the IDEA.

11 However, to date the funding received
12 from the federal government has varied between
13 fourteen and eighteen percent.

14 DC's dispute resolution system also
15 places the burden of accessing special education
16 services on students and their families.

17 Our committee presents a series of
18 recommendations. Several of them: (1) Congress
19 should fully fund IDEA; (2) Congress should consider
20 expanding the Family Medical Leave Act to include
21 key IEP meetings and related events to provide
22 services for students with disabilities, as paid
23 leave for parents and caregivers.

24 We do ask, in our third recommendation,
25 that you all -- this Commission -- consider taking

1 here, some are joining virtually -- and also the
2 staff. I can't thank the staff enough. Our
3 committee found that our DFOs, our support staff,
4 were incredibly helpful as we navigated this
5 process.

6 I want to thank the public stakeholders,
7 special advocacy groups, educational facilities that
8 invited us in, and then government offices.

9 I don't want to list everyone, at the
10 risk of leaving someone out, but I will say the
11 District of Columbia is unique in how local
12 government is structured.

13 Obviously, there's some limited home
14 rule, but everyone has obviously created a
15 collaborative process. They understand that we want
16 to work to try to elevate this cause for progress.

17 CHAIR GARZA: Well, thank you very much
18 for your words here. It's a topic that we are
19 exploring through our teacher shortages
20 investigation led by Commissioner Gilchrist. So,
21 thank you for presenting.

22 We're going to open up questions at this
23 time. And I've been indicated that Commissioner
24 Jones would like to ask a question.

25 COMMISSIONER JONES: Thank you, Madam

1 Chair. Thank you for being here today and for your
2 important work.

3 I want to hear more about the report.
4 So, I would love to hear more about these due
5 process complaints, the way that the report
6 originated, what were the facts leading up to the
7 opening of this investigation and the report.

8 And could you talk about some of the
9 findings? You mentioned recommendations in your
10 report, but I'd love to know what were some of the
11 factual findings that you made.

12 MR. HEARD: So, this report kind of
13 originated -- our committee in 2023 were leading up
14 to that. We were considering different topics.

15 There was a Law Review article from
16 University of District of Columbia Law Review that
17 indicated that at the time DC had the highest number
18 of due process complaints in the country, and that
19 probably before that and since then, has really kind
20 of hovered at the top of that.

21 When you look at the nature of the
22 population, the students impacted, it's a
23 disproportionate amount.

24 Also, from personal matters with members
25 on our committee that had gone through this, our

1 Vice-Chair Craig Lean shared his family story about
2 how there was -- somewhat when he went to access
3 these services for his daughter, there was more of
4 an invitation to sue.

5 Basically, the school system said, well,
6 if you sue us, you'll probably get this done. And
7 we heard that same testimony from several parents.

8 COMMISSIONER JONES: Is that what you
9 mean when you referred to a due process complaint?
10 This idea that under the IDEA a FAPE -- a free and
11 appropriate education -- is not being provided, and
12 so you have to sue on due process grounds to get
13 that relief?

14 MR. HEARD: Yeah, somewhat. So, the way
15 this works is there's a series of steps to try to
16 resolve these things, starting with a meeting with
17 the teachers and different stakeholders within the
18 school, to inform what the IEP -- Individualized
19 Education Plan -- looks like for each student.

20 Parents may feel like, my child needs
21 more, or they need less, or after IEP is put in
22 place, what if something should develop where
23 parents or caregivers feel like there's additional
24 services needed. So, each step, it kind of resets
25 the clock on each issue.

1 Well, after you exhaust those processes,
2 or depending on the length of time, there was kind
3 of informally -- we heard testimony and personal
4 experiences from our Vice-Chair -- that school
5 officials would just say, if you were to sue us, we
6 can kind of speed this up and you get what you need.

7 Well, that creates this huge disparate
8 impact, because what about families that can't
9 necessarily navigate the legal system, can't afford
10 to navigate the legal system.

11 What about children in foster care.
12 Right? Those barriers. People where English is not
13 their first language.

14 It created this huge issue that we
15 decided to explore more, based off the UDC article,
16 testimony, and all of those things were affirmed to
17 be kind of critically true that we're hearing,
18 especially in the transportation lens, somewhere
19 like the District of Columbia.

20 Unfortunately, every school is not
21 necessarily equipped with the services and the staff
22 to provide these services. So, we saw
23 transportation issues from students having to be
24 bused as far away as Baltimore.

25 And in those issues, the bus showing up

1 late, parents not being able to track the bus -- and
2 by late, I mean hours, sometimes. Hours, or -- say,
3 well, it's an hour late or two hours late, or
4 they're not going to be able to come at all.

5 And so, what does that do for a
6 caregiver or a parent in their employment situation?
7 But then also, critically, allowing these children
8 to receive his education. When you're missing
9 hours, days and weeks out of the school year due to
10 that, that creates an issue.

11 So, those are some of the things that we
12 kind of identified, that we heard over and over.

13 I will say that throughout this
14 testimony, us gathering testimony, we also did kind
15 of understand informally that this is something the
16 District is obviously working on.

17 Seems like there's a barrier perhaps in
18 resources that are available, and parents knowing
19 those resources.

20 And I'd be remiss to not pointing out,
21 especially on the transportation front, I believe in
22 2017 or such, it was the conclusion of a class-
23 action lawsuit that had gone on basically under a
24 consent decree for several years -- almost two
25 decades.

1 And so, as we were undertaking our study
2 last spring, another suit commenced on the
3 transportation lens.

4 So, this is clearly an issue that is
5 impacting the District of Columbia and the students
6 and its families.

7 So, in the recommendations, our
8 committee sought to be innovative. To back up, we
9 understand throughout our committee, life
10 experience, professional experience.

11 We wanted to not make this a "gotcha"
12 process, or adversarial process. Some things can
13 only be in the District of Columbia.

14 We wanted to basically provide a
15 platform to assess and find out what the facts were,
16 and make innovative recommendations based off that.

17 And so, those recommendations
18 considered: (1) fully fund the IDEA. That was
19 probably the largest that I think impacts most
20 students, not just in DC but across the country. It
21 creates another burden for local school systems.

22 (2) I think expanding Family Medical
23 Leave Act is something I highlighted in my testimony
24 today, because those are key meetings that must
25 occur to develop the basis of an IEP that then is

1 kind of the impetus of, are those needs being met?
2 If not, that triggers due process --

3 COMMISSIONER JONES: I'm sorry. Can you
4 elaborate on how the Family Medical Leave Act
5 applies to what you researched?

6 MR. HEARD: So, graciously, one local
7 public charter school -- St. Coletta -- brought us
8 in. We were able to meet with them and they
9 collaborated with us. And then we also heard from
10 parents as well.

11 Some parents were not able to meet
12 necessarily with the proper officials in the local
13 school, teachers included, to have those ongoing
14 conversations and dialogue to resolve potential
15 issues.

16 We heard resounding amount of testimony
17 and statements. That is key to limiting things
18 getting to an area where there could be litigation.

19 And so, if parents aren't able to do
20 that because of work circumstances or whatever the
21 case may be, that's a critical component of IDEA.

22 And so, considering what would that look
23 like potentially, we understand that's a heavy lift
24 to say, let's just create a new law. Especially
25 something along those lines.

1 But we wanted to be thoughtful on how we
2 proposed that. One of the other recommendations in
3 our report immediately that would impact this region
4 probably the most, was for the President to consider
5 an executive order to expand coverage -- paid
6 leave -- for government employees and federal
7 government contractors, in the interim.

8 So, those are some of the
9 recommendations that we found. On the local
10 level --

11 CHAIR GARZA: I'm so sorry. Just to
12 jump in here, because I want to clarify what you're
13 saying. What you're really saying is you've got
14 parents that are working, that can't leave work to
15 go to the school to help their special needs child
16 go through a program and ensure that they're able to
17 get the kind of services they need for them to be
18 successful in school.

19 MR. HEARD: Yes.

20 CHAIR GARZA: And that's the heart of
21 it, isn't it? The parents cannot access it and
22 that's the heart of the recommendation --

23 MR. HEARD: Yes.

24 CHAIR GARZA: -- is making sure that
25 they have that ability, and that FMLA is a vehicle

1 for ensuring that protection.

2 MR. HEARD: Yes.

3 CHAIR GARZA: Okay. I didn't mean to
4 cut you off. Please continue. I just wanted to
5 clarify, because I think the public really needs to
6 understand these things in plain terms, and
7 understand that the way that policies are made
8 deeply impacts their ability to live and receive
9 benefits that they deserve. Right?

10 Especially, our children are a very
11 particular population that is particularly
12 vulnerable.

13 I've made no secret that I grew up with
14 a sibling with disabilities. My oldest brother
15 Robbie had a brain injury during childbirth. And
16 it's so critical to ensure that families get the
17 support that they need, that these children get the
18 support that they need.

19 And just want to make sure that the
20 American public understands these things in plain
21 terms. So, didn't mean to cut you off. Go ahead
22 and continue, please.

23 MR. HEARD: And additionally, from a
24 local government standpoint, we suggested a few
25 considerations for policy implementation. As

1 recently as this week, we've gotten some
2 communication with local government.

3 I will say DC is unique from most local
4 governments in that any law that is passed between
5 council and the Mayor, is subject to congressional
6 review before it actually is implemented.

7 So, when we look at the number one
8 recommendation, Congress fully funds the IDEA,
9 additionally, whatever DC local government were to
10 implement to help out OSSE or DCPS, would still be
11 subject in appropriation of their funding, to
12 congressional review.

13 CHAIR GARZA: One other thing I wanted
14 you to dig into a little bit is the funding for the
15 IDEA. You said that it's at fourteen percent?

16 MR. HEARD: It varied between fourteen
17 and eighteen percent.

18 CHAIR GARZA: And is that specific to
19 the DC school system, or just across the board?

20 MR. HEARD: Across the board. Across
21 the board. So, when you apply that to DC public
22 schools, especially the legs that we kind of found
23 from this report when you combine that with the
24 transportation issue, the pie-in-the-sky students
25 would not have to be bused upwards of two hours away

1 if schools within the District had what they need --
2 staff, teaching, everything for this.

3 So, that funding can make probably
4 likely, we'd imagine, make a large difference, and
5 from the top down, across the United States, but
6 definitely here in the District of Columbia.

7 CHAIR GARZA: So, fully funding it would
8 help resolve this problem.

9 MR. HEARD: Yes. That's what we
10 believe.

11 CHAIR GARZA: Okay. Are there any other
12 questions from Commissioners? Commissioner
13 Kirsanow?

14 COMMISSIONER KIRSANOW: Thanks very much
15 for the presentation. What do you think is the
16 population, the number of individuals affected by
17 this in DC?

18 MR. HEARD: I'm not certain. I would
19 have to look into that.

20 COMMISSIONER KIRSANOW: Okay. And what
21 do you consider to be fully funding?

22 MR. HEARD: The forty percent that was
23 guaranteed when the law was passed in 1975.

24 COMMISSIONER KIRSANOW: Yeah. Thanks.

25 COMMISSIONER JONES: Can you estimate

1 the number of people who are impacted in the DC
2 area? Number of students who are impacted by this?

3 MR. HEARD: Actually, give me one
4 moment. It definitely would be tens of thousands.

5 CHAIR GARZA: Commissioner Magpantay?

6 COMMISSIONER MAGPANTAY: This is a great
7 report. I read it carefully and I'm sensitive to
8 the unique circumstances of the District of
9 Columbia.

10 Can I just ask, you made recommendations
11 to the United States Congress, and I also see one to
12 the Department of Education.

13 Under our authority as the Civil Rights
14 Commission to advise the President and the Congress
15 and his administration on civil rights and equal
16 opportunity, can I just ask the staff that we ensure
17 that their recommendations are transmitted to the
18 appropriate congressional committees, as well as to
19 the Secretary of Education, they full consider the
20 DC State Advisory Committee's recommendations, in
21 whole.

22 Thank you for the acknowledgment mark,
23 our acting staff director, that that will be done.
24 Because I do think it is important when you do this
25 work, to not just sit in a file, but to convey to

1 decision-makers who can actually enact the
2 recommendations that you need. Thank you.

3 MR. HEARD: Thank you, Commissioner.

4 CHAIR GARZA: Vice-Chair Nourse?

5 VICE CHAIR NOURSE: Hello, Mr. Heard.
6 Thank you so much for all this work. It's really
7 lovely to have you here. And I've lived in the
8 District for many, many years. Unfortunately, I
9 headed to decamp to Virginia when I was remarried.
10 But I have great affection for the District and the
11 work that you do.

12 I am concerned about the future. And
13 I'm glad you're doing another report. Could you
14 just clarify for us how you see development of the
15 Department of Education impacting DC, in particular?

16 MR. HEARD: To answer that, in March of
17 this year the U.S. Department of Education announced
18 an investigation into DC public schools, based off
19 our report. So, I'm sure you all are aware of that.

20 We do hope to learn more about what that
21 finds and yields. But I think the concern is the
22 impact of shuttering those services, or transferring
23 those services rather, to another agency.

24 Based off what I am seeing and hearing
25 from our committee -- and we have not voted formally

1 to proceed, but I think that's where it will go --
2 is what would that delay mean for students from the
3 oversight standpoint, what it would mean for
4 receiving necessary services from the schools as
5 well. I think that is the largest course that I'm
6 hearing, that we want to explore more and get
7 feedback from, as we kind of proceed with this
8 addendum.

9 CHAIR GARZA: I wanted to ask you if
10 there was a piece of testimony, or an impact story
11 that you heard throughout this process, that really
12 illustrates the issue here?

13 Because I'm just thinking about the
14 kids. Right? The kids that need to get to school,
15 the families that need that structure to ensure that
16 their kinds don't have a bad day.

17 I don't know how to say it other than
18 that. Because a lot of times kids with special
19 needs, they need structure, they need reliability,
20 they need support, and the families need support.

21 So, I would love to hear, so you could
22 bring it home for the public that are listening
23 today, just how critical this is. And then also, if
24 you can tell us -- I mean, this to me is a funding
25 issue. And it's where we're putting our priorities.

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Right?

We should be prioritizing them. So, I wanted to hear from you something that stuck out to you.

MR. HEARD: I will say the parents and caregivers, they gave us testimony. I applaud their transparency. That could not have been easy to do.

One of the things that we heard from multiple parents that I thought was admirable, is people of means -- a lot of attorneys are in the District of Columbia, a lot of professionals with great salaries, business owners -- we heard testimony from several that, very transparent, they had created an informal parent bar. They were giving those services to other parents.

But in that process, we heard testimony -- I think in May actually -- in 2024, where a parent, they did not know where their child was in the transportation route, for over two hours. The bus broke down.

So, in terms of special education services, disruption can wreak havoc. Right? So, think about if they're late at school, what happens during the day but on their way home from school.

They didn't know where their child was.

1 That means a child didn't know where their parent
2 was, and there was a delay for over two hours.

3 And the only way that they found out is
4 because of another parent. I think someone posted
5 on Twitter, if I recall correctly, that the bus had
6 actually been involved in a traffic accident. So,
7 that was one thing that stood out.

8 The other component that stood out to me
9 was the disruption in the actual educational
10 setting.

11 What that means for parents when the
12 children aren't getting what they need because
13 they're not in the school, but actually when they
14 are in the school, if children don't have a sense of
15 safety, if they are not progressing -- there were
16 some findings that suggested that kids were kind of
17 just being passed along.

18 And I don't want to put too much of
19 people's individual testimony that's not included in
20 the report, or things that people said kind of
21 anecdotally in passing, but a lot of people reached
22 out and expressed that that creates havoc for the
23 child in their development and their sense of
24 belonging, and their sense of progress in their
25 immediate community.

1 So, it definitely is an issue here in
2 the District of Columbia, and then collectively as
3 well.

4 CHAIR GARZA: Thank you for that.

5 COMMISSIONER GILCHRIST: Madam Chair?

6 CHAIR GARZA: Yes, Commissioner
7 Gilchrist.

8 COMMISSIONER GILCHRIST: Thank you so
9 much. I want to thank Chairman Heard for what I
10 thought was a very informative report.

11 One of the things that really received
12 my attention was the personal testimony from
13 parents, as we were just discussing, particularly
14 the testimony from, I believe it was Ms. Mitchell.

15 I'm a dad of a school-aged child. And
16 to read how a parent witnessed their child being
17 bullied and harassed -- particularly the special
18 needs children -- and being targeted, was quite eye-
19 opening for me.

20 And a lot of times in our public schools
21 across this country, adults just don't seem to get
22 this aspect of what's happening to children.

23 When there's a cultural bullying and
24 harassment in school, I'm just curious to know, did
25 the committee make any recommendations on policy

1 changes to assist with the protection of some of our
2 most vulnerable students when it comes to special
3 needs?

4 MR. HEARD: Commissioner, collectively,
5 I think all the recommendations taken, I will say,
6 and highlight, we wanted to highlight the finding of
7 the dispute resolution system places the burden of
8 accessing these services on the parents.

9 Like, it says to the parents, you must
10 go through this, but kind of strips the floor from
11 under them.

12 Specific to bullying, we didn't address
13 that directly. But we wanted to create the culture
14 to eliminate that.

15 We did hear testimony from parents their
16 fear of retaliation for raising these concerns.
17 That was something very real.

18 And I will say, as we continue and
19 possibly hold additional hearings, one to two, we
20 would like to invite more parents to give their
21 testimony.

22 Since it was announced that the U.S.
23 Department of Education was going to use this report
24 to investigate DC public schools, I have seen media
25 reports and broad national publication of parents

1 locally, saying this is long overdue, and may have
2 touched on issues of bullying.

3 And unfortunately, I believe I saw a
4 report that a parent alluded to, they actually went
5 to the school for the IEP process and the teacher
6 deliberately didn't show up.

7 So, we want to explore that more, to add
8 a complete fullness to this report.

9 COMMISSIONER GILCHRIST: No, thank you
10 for that. That's all the questions I had, Madam
11 Chair. Thank you.

12 CHAIR GARZA: Thank you, Commissioner
13 Gilchrist. Commissioner Jones?

14 COMMISSIONER JONES: I know we've got a
15 full schedule today, but I just want to conclude by
16 thanking you again for the important work that you
17 did.

18 In recent months there's been a lot of
19 talk about the ineffectiveness of government. And I
20 think the important work that your committee has
21 done has clearly made a difference, because it's
22 gotten the Department of Education itself to open
23 that investigation that you referred to.

24 And so, I think the DC Committee, the
25 Advisory Committee to this body, is a prime example

1 of the important work that we do here at the
2 Commission.

3 And I hope I speak for all of us when I
4 say that we're going to continue to amplify the work
5 that you're doing.

6 CHAIR GARZA: Yeah, I'll agree with
7 that, Commissioner Jones. Thank you again.

8 COMMISSIONER MAGPANTAY: Madam Chair.

9 CHAIR GARZA: Go ahead, Commissioner
10 Magpantay.

11 COMMISSIONER MAGPANTAY: Sorry, I'm not
12 on the support, but if I may just make a request.

13 So, under the enabling statute, it's a
14 reciprocal arrangement between the Commission and
15 the Civic Advisory Committees.

16 We accept your recommendations, and the
17 Federal Commission is also authorized to request
18 that you can take up a matter.

19 A while ago, we heard from the Puerto
20 Rican and the Virgin Islands State Advisory
21 Committees, which are not states.

22 And we're one of the few or only federal
23 agencies that actually recognizes entities that are
24 part of the United States that are not states.

25 And so, maybe this is also a question

1 for the staff. I would love -- and this is a
2 request -- if you all would consider looking at what
3 are the commonalities between the District of
4 Columbia and the territories, as non-states, and is
5 there something that the Congress should do with
6 regard to our representation in the Congress in
7 commonality with other states and your rights under
8 the Constitution.

9 That is only a request, not a mandate.
10 But would love to work with you all if you are
11 interested in taking that up.

12 CHAIR GARZA: Thank you, Commissioner
13 Magpantay. I know you all have your process. Each
14 of our advisory committees has their process in
15 evaluating and looking at issues and coming to a
16 consensus on what they're going to investigate.

17 COMMISSIONER MAGPANTAY: My request is
18 authorized under Section 4 of our enabling statute.

19 CHAIR GARZA: Great.

20 COMMISSIONER JONES: But to be clear,
21 you're not speaking on behalf of the Commission when
22 you say that, so you should feel no pressure to do
23 that.

24 CHAIR GARZA: Yeah. That is not an
25 official request of this Commission.

1 COMMISSIONER MAGPANTAY: That is an
2 undermining comment.

3 CHAIR GARZA: Okay. Well, thank you
4 very much for your presentation. I appreciate all
5 of your words, I appreciate the work that all of you
6 have done, and will look to hear more from you in
7 the future as you continue to investigate this very
8 important issue. Thank you for being here.

9 COMMISSIONER JONES: Thank you all.
10 Thank you.

11 CHAIR GARZA: All right. So, with that,
12 we're going to go ahead and hear from our
13 Pennsylvania Advisory Committee Chair Steve Irwin on
14 the Committee's Report, the Rising Use of Artificial
15 Intelligence in K-through-12 Education. If you
16 would please step forward.

17 PRESENTATION BY PENNSYLVANIA ADVISORY COMMITTEE
18 CHAIR ON THE RISING USE OF ARTIFICIAL INTELLIGENCE
19 IN K-12 EDUCATION

20 MR. IRWIN: I'm on camera.

21 CHAIR GARZA: I believe you're on the
22 phone. Okay, great. You can go ahead. The floor
23 is yours.

24 MR. IRWIN: Okay, thank you very much.
25 Good morning, Chair Garza, Vice-Chair Nourse,

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Commissioners. My name's Steve Irwin.

I've had the honor of serving on the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights for the past twenty-five years.

First, I was a member, as many of you, and vice-chair, and for I believe the last eight years, as chair.

I'm here today to present our Committee's Report, which was completed at the conclusion of our most recent term in December 2025, which is entitled, "The Rising Use of Artificial Intelligence in K-through-12 Education."

Before I begin, I want to acknowledge our vice-chairs, our officers, and our dedicated committee members -- our term had come to an end -- many of whom are listening today, for their scholarship, their commitment, and their passion, which was augmented by the highly, eminently capable commission staff designated for Pennsylvania. They're all listed in the report and I'm deeply grateful for their contributions.

So, why we took this on. Artificial intelligence has already entered K-through-12 education. While it offers promising tools --

1 helping teachers streamline tasks, personalized
2 learning, and free up time for student interaction,
3 it also introduces serious risks.

4 Teachers use AI to create lesson plans,
5 to create grading rubrics, and even evaluate student
6 work. Students use it to summarize texts or get
7 writing help for students with disabilities.

8 AI can offer accommodations for students
9 with disabilities, like text-to-speech, or virtual
10 reality environments that make learning even more
11 engaged.

12 Yet, we also heard compelling testimony
13 from students with disabilities who reported that AI
14 tools, like transcription, live-captioning, and
15 voice-recognition, often fall short. These aren't
16 yet reliable replacements for human support.

17 Most significantly, AI systems are not
18 neutral. Bias in AI programming is well-documented
19 and it's hard to detect, let alone fix.

20 As Dr. Beatrice Diaz of the University
21 of Pittsburgh put it, "AI algorithms are opinions
22 embedded in code."

23 And Dr. Hoda Heidari of Carnegie-
24 Mellon's preeminent School of Computer Science
25 added, "there's no such thing as an unbiased

1 algorithm. The best we can do is minimize harm."

2 The bias comes from, we learn, from
3 flawed data. Flawed assumptions were the human
4 choices embedded in algorithms.

5 In schools, these biases can reinforce
6 discrimination -- quietly and quickly. Let me share
7 a few examples that highlight the risks.

8 E-proctoring software. This kind of
9 software has misidentified black and Asian students
10 at rates ten to a hundred times higher than white
11 students.

12 AI-driven placement systems can trap
13 low-income and minority students into low-
14 expectation academic tracks.

15 Predictive analytics tools have been
16 used to flag at-risk youth using school data, often
17 leading to increased surveillance and discipline for
18 vulnerable students.

19 And devices that are issued to students
20 who cannot afford their own, often come with
21 monitoring software that invades privacy and enables
22 disproportionate discipline.

23 We heard testimony showing that AI is
24 being used not just to teach, but to track behavior,
25 assign value, and in some cases predict future

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criminality.

That's not education. That's profiling.

So, our findings. The committee broke down and identified two distinct uses of AI in education, K-through-12 realm: teaching students about AI, how to use it, how it works, and how to think critically about it.

And second, using AI to teach students -- to evaluate, monitor, or assess their progress. Now, it's fair to say that there was a consensus as to the first.

Teaching students how to understand AI is crucial to their future, but the second must be approached with great caution.

AI has the potential to improve education, but also to damage it. It can disrupt student-teacher relationships, reduce critical thinking, and widen the digital divide.

Many witnesses, particularly those focused on early education, urged a pause. Algorithms can't teach empathy. They can't replace play, movement, or face-to-face connection. And for students living with trauma, no AI system can substitute for a caring adult.

Among our key findings was that the push

1 to introduce AI into classrooms is being led by
2 industry, not educators.

3 Companies are developing products in
4 search of markets, not necessarily in response to
5 teacher or student needs.

6 That's why our committee urges that
7 access to the K-through-12 education marketplace be
8 contingent on proper design, proven efficacy, and
9 civil rights protections. Procurement can be a
10 powerful tool if it's used wisely.

11 Let's talk for a second about current
12 gaps in oversight.

13 We found that school districts often
14 lack the resources and the expertise to safely
15 implement AI tools.

16 As IBM's first global chief AI officer
17 told us, "local school boards simply aren't equipped
18 to handle this alone."

19 We heard from Luke Bilger of the
20 Philadelphia School District, which has taken a
21 thoughtful approach. AI is not used in instruction
22 there yet. Only vetted tools with strict data
23 privacy agreements are allowed.

24 And an internal oversight committee
25 brings together educators, legal teams, and IT

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staff, to evaluate next steps.

It's a model worth following.

Despite existing federal protections like Title VI, Title IX, the ADA, and Section 4 of the Rehab Act, AI is moving faster than enforcement. Ed Tech companies can be considered school officials under the Act, under the Family Educational Rights and Privacy Act goals (FERPA) giving them broad access to student data, often with no oversight. That data's been sold, merged, or reused, with little transparency.

Consider some troubling statistics:

Thirty-eight percent of teachers said their schools share sensitive student data with law enforcement.

Thirty-six percent report the use of predictive analytics to identify future criminal behavior, and one-third report the use of facial recognition to regulate access to schools.

This has fueled a rise in police presence in Pennsylvania schools, which reinforces a deeply concerning trend, the school-to-prison pipeline, in which our advisory committee, you may recall, produced an excellent report that I had the honor of presenting to you several years ago.

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Here's our key recommendation. So, we made twenty-five -- you can look at them in the report but I'm just going to highlight five.

Our advisory committee recommends that you, the Commission, call on government and industry to establish benchmarks for safety, efficacy, equity, and data privacy, before AI tools can be procured with public funds.

Two, acknowledge the long-term risks of unregulated AI in education, and commission a national study by you -- by the U.S. Commission -- to explore its civil rights implications.

Three, urge Congress to close the FERPA loophole that I mentioned, preventing ed tech companies from acting as school officials, without meaningful restrictions.

Number four, alert the Department of Justice to investigate the use of AI in school surveillance and disciplinary systems, especially where it intersects with juvenile justice.

And fifth, we recommend that you encourage Congress and the states to incentivize states and school districts to center human relationships in curriculum at these levels, even as they explore these new technologies.

1 As the learning instigators, Michelle
2 King wisely warned, "if we fall into the trap of
3 speediness, we might create the conditions for worse
4 programs. Our goal must not only be student
5 achievement, but human development."

6 In the end, we concluded that the
7 success, fairness, and safety of AI in K-through 12
8 education depends on measured implementation and the
9 active participation of educators, families,
10 researchers, and students.

11 Philadelphia has shown a path forward
12 when it's collaborative, cautious, and focused on
13 student well-being. And I'm sitting in Pittsburgh,
14 so me giving credit to Philly's a big thing.

15 The promise of AI is real. But so are
16 the dangers. We get this wrong, it's the most
17 vulnerable students who will bear the costs.

18 Thanks for your attention and for your
19 continued commitment to civil rights in this rapidly
20 evolving space.

21 CHAIR GARZA: Thank you so much, Chair
22 Irwin, for your presentation. We're going to now
23 turn to Commissioners for questions for Chair Irwin.
24 Are there any questions? Who would like to be
25 recognized? Vice-Chair Nourse?

1 VICE CHAIR NOURSE: Hello, Mr. Irwin.
2 Thank you so much for all your work at the
3 Pennsylvania Advisory Committee. And it's nice to
4 hear you again here at the Commission.

5 I thought this was fascinating. It's no
6 secret I'm a law professor. And we have been
7 struggling at the graduate level with the use of AI.

8 But the idea that it's being used in
9 kindergarten is just kind of shocking to me. Our
10 work has shown that AI within the law is remarkably
11 useless. Which is to say that it hallucinates,
12 because it has a built-in set of assumptions to be
13 helpful.

14 So, you can create entire law review
15 articles that look like a law review article, but
16 have no basis in reality.

17 So, I'm kind of shocked about this. If
18 there's one thing we could do -- I know you have
19 several recommendations, and I really like the
20 benchmark idea.

21 But my question is, how do you get to
22 the benchmarks? Do you have to go to the companies?
23 Spin that out a little bit more. How would we get
24 benchmarks that we could actually offer to
25 companies? Or how would be develop that kind of

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expertise?

MR. IRWIN: That's a really great question, Vice-Chair Nourse. And so, a couple of things. First of all, remember it's being used in two ways: in elementary, secondary, preschool even.

It's used to be able to create lesson plans, it's used to be able to do a lot of administrative work for teachers, that gives them more time to actually be with the children as well.

But there are kids from homes that have access to this on computers from second grade, third grade, and on. And not everybody has that access and not every school district is able to provide its students with the kind of devices that they would be able to experiment and use these tools.

In full disclosure, I got the wonderful guidelines from Chair Garza on how to present today, only a few days ago. And I've been pretty busy and wasn't able to get my presentation today down to my ten-minute limitation.

So, I just put it into AI and asked it to make it into a ten-minute speech, as opposed to a twenty-five minute speech. And it did it in literally about three seconds last night at 11:30.

So, I did read it carefully and made

1 sure it was all accurate. But I'm happy to -- I
2 can't show you because you can't see me on camera.
3 And by the way, I got dressed up for you guys today.
4 I wish I were there in person.

5 CHAIR GARZA: We wish you were here in
6 person too.

7 MR. IRWIN: Thanks. It's really an
8 incredible tool. If used well, that's a good use of
9 that tool. But as you alluded, AI has the ability
10 to create its own law, its own interpretations.

11 A judge on the Pennsylvania Court of
12 Judicial Discipline, and we watch very carefully
13 what judges are doing, clerks are doing, in terms of
14 producing opinions, and what they're relying on and
15 what lawyers are relying on. And we've had some
16 decisions in that regard as well.

17 And now I'll answer your question.
18 There are some really -- our report, we had five
19 hearings, with four or five people who came and
20 testified in person. You have the benefit of all of
21 that testimony.

22 It's extensive. We had one year to do
23 one report and it was our understanding that there
24 was interest by the Commission in helping us lay the
25 groundwork for you to do a more fulsome national

1 report. And we hope we provided you with some
2 incredible people who are thinking about this.

3 I think what even industry recognizes
4 is -- and IBM, of course, can afford to recognize
5 it -- but not every startup is going to be able to
6 think about this, because it's where the money is,
7 to be able to sell these kinds of textbooks and
8 databases to school districts.

9 They don't have the ability to do that
10 kind of auditing, to see what the consequences are
11 of using these tools in the classroom.

12 So, in the development there's a new
13 deployment, there's coming back and checking to see
14 whether it's working.

15 It's going to take time. The most
16 important thing is that we don't go head-first and
17 then clean up the mess. People are saying go, but
18 go slow.

19 And there's a lot of good thinking out
20 there, but it's expensive and school district's need
21 to learn from each other, states need to learn from
22 each other. And there's a role for the federal
23 government in modern training, establishing these
24 benchmarks.

25 CHAIR GARZA: Well, thank you for that.

1 Are there any other questions from Commissioners on
2 this topic? Commissioner Magpantay?

3 COMMISSIONER MAGPANTAY: Thank you,
4 Chair Irwin, for your work on this. Same request of
5 the staff as before. You make a recommendation, the
6 Commonwealth's Advisory Committee makes a
7 recommendation to the Secretary of Education. If we
8 could be sure to convey the State Advisory
9 Committee's recommendations to the Secretary of
10 Education and what's left of the Department, so that
11 they can take up this matter, that would be
12 appreciative. That would be great. Yes? Thank
13 you, staff, for acknowledging that that can be done
14 and conveyed. Thank you.

15 MR. IRWIN: Thank you, Commissioner
16 Magpantay. Thank you for your friendship to the
17 Pennsylvania committee. You've been a great support
18 for us these many years.

19 CHAIR GARZA: Okay. Well, Chair Irwin,
20 I don't think we have any further questions for you.
21 I do want to commend you all on investigating
22 artificial intelligence. It's something that this
23 Commission has been endeavoring to investigate.

24 We more recently looked into facial
25 recognition technology, and I think that these

1 emerging technology issues are going to have far-
2 reaching implications, and not just in education and
3 criminal law. In various ways in our lives.

4 So, I appreciate you all being at the
5 forefront and investigating this important issue.
6 And appreciate your service. Thank you.

7 MR. IRWIN: Thank you. Thank you very,
8 very much for the opportunity to present today. And
9 thanks for getting -- our term's ended, so reappoint
10 for Pennsylvania as soon as possible. There's
11 tremendous resources at the universities in
12 Pennsylvania, on this topic in particular, and by
13 appointing a great committee, which you did last
14 time, we can do a lot of the hard work on the
15 ground.

16 And the last thing I'll say, again, is
17 that the support, the officer of need, the staff and
18 the Commission, on twenty-five years that I've been
19 involved with the Commission, has never been better.
20 So, thank you very much.

21 CHAIR GARZA: Well, thank you for
22 commending our staff. They work very hard, and I
23 know that they shepherd you along in these projects,
24 as well as us. So, I'm really happy to hear that
25 and I'm sure the staff is happy to hear your praise

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as well.

All right, we're going to move on to our next agenda item for the Commission. It is a discussion to vote on the package of advisory committee appointments.

DISCUSSION AND VOTE ON STATE ADVISORY COMMITTEE

APPOINTMENTS

CHAIR GARZA: To move our discussion along, I'm going to go ahead and move that we appoint the following people to serve as members of the following advisory committees:

For Alaska, Carole Holley as Chair, along with appointees Jennifer Adams, Chad Emswiler, Nelson Godoy, Forest Haven, Cynthia Henry, Christina Love, Keith Manternach, Kathryn McCollum, Elizabeth Blaine-Seilotes, Alexander Toth, Jason Warfield.

For West Virginia, Adam Kissel, as Chair, along with appointees Mark Adkins, Kristi Dumas, Kent George, Roger Hanshaw, Emily Minick, Fanica Payne, Jonathan (Zak) Ritchie, Jennifer Sano-Franchini, Stephanie Thorton, Sarah Wagner.

For Florida, Ebonni Chrispin, Chevalier Lovett, Brad McVay.

For Maryland, Georgia Coffey as Chair, along with another appointee, Thomas Dineen.

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For Virginia, Nicholas Down.

All of these members will serve as uncompensated government representatives, and if the motion passes, the Commission will authorize the staff director or his designee to execute the appropriate paperwork for the appointment. Do I have a second for this motion?

COMMISSIONER HERIOT: Second.

CHAIR GARZA: A motion has been properly made and seconded by Commissioner Heriot. Is there any discussion?

Okay, hearing none, we're going to go ahead and proceed to roll call vote. Please respond with yes if you are in favor, no if you're opposed, or if you are abstaining.

Vice-Chair Nourse?

VICE CHAIR NOURSE: Aye.

CHAIR GARZA: Commissioner Adams?

COMMISSIONER ADAMS: Yes.

CHAIR GARZA: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Yes.

CHAIR GARZA: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR GARZA: Commissioner Jones?

COMMISSIONER JONES: Abstain.

1 CHAIR GARZA: Commissioner Kirsanow?

2 COMMISSIONER KIRSANOW: Yes.

3 CHAIR GARZA: Commissioner Magpantay?

4 COMMISSIONER MAGPANTAY: Aye.

5 CHAIR GARZA: Okay. And I abstain. So,
6 two abstentions and six -- oh, hold on. Did I miss
7 someone? No, I did not.

8 COMMISSIONER HERIOT: No, you got it.

9 CHAIR GARZA: Okay. Two abstentions and
10 six yeases, motion passes. Congratulations to the
11 folks that have been appointed to the State Advisory
12 Committees. And as many of you are aware and as
13 I've said earlier, our advisory committees are
14 instrumental in amplifying the voices of the
15 communities across this country, to ensure that
16 civil rights remain central to the policy
17 discussions that we are having, and I look forward
18 to the meaningful contributions of the newest
19 members of the State Advisory Committees.

20 So, with that, we are going to go ahead
21 and turn to our acting deputy staff director, Marik
22 Xavier-Brier. We're going to turn to you for the
23 monthly Staff Director's Report. The floor's yours.

24 III. MANAGEMENT AND OPERATIONS

25 STAFF DIRECTOR'S REPORT

1 DR. XAVIER-BRIER: Good morning,
2 Commissioners. In the interest of time, I have
3 nothing further to add than what was already in the
4 Staff Director's Report. But if Commissioners have
5 any questions, please feel free to reach out and I'm
6 happy to answer whatever issues you may have. Thank
7 you.

8 CHAIR GARZA: All right. Well, thank
9 you for that. Prior to concluding today's meeting,
10 I'd like to take a moment of personal privilege.
11 I'd like to acknowledge Commissioner Magpantay for a
12 brief moment, whose intern is ending their time and
13 would like to acknowledge them.

14 COMMISSIONER MAGPANTAY: I just wanted
15 to recognize George Washington, GW Washington Justin
16 Cayago, who interned this spring, 2025, and
17 supported my special assistant and myself,
18 particularly the work that we did with language
19 access and the research.

20 Justin, thank you so much for your
21 service on behalf of the Commission, and I speak on
22 behalf of the United States. Your work has been
23 great. Thank you.

24 CHAIR GARZA: Great. Okay. Well, I
25 think that concludes the business of the Commission.

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So, we're going to -- actually, hold on.

I did want to acknowledge that we did have an Advisory Committee member from Guam who passed away. And I do want to note that for the record, Robert Klitzke, and I wanted to acknowledge that we had sent some condolences to him.

(Off-microphone comments.)

CHAIR GARZA: We did, yes.

PARTICIPANT: His family.

CHAIR GARZA: And his family, yes. He served on the Advisory Committee and has served the Commonwealth of Guam for many years.

IV. ADJOURN MEETING

CHAIR GARZA: Okay. With that, I'm going to go ahead and adjourn us. I believe we're ending at 11:00 a.m., Eastern Time. So, nothing further. I'm going to go ahead and adjourn us. Thank you.

(Whereupon, the above-entitled matter went off the record at 11:00 a.m.)

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Before: USCCR

Date: 04-11-25

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