

**DRAFT.5.2.08 ATTORNEY WORK PRODUCT. PRIVILEGED AND CONFIDENTIAL**

Int. No. \_\_\_\_

A Local Law to amend the city charter and administrative code to enable the Civilian Complaint Review Board to investigate complaints of misconduct by police personnel assigned to public schools, and to require that the Department of Education and Police Department submit quarterly reports to the City Council on school safety matters.

**Be it enacted by the Council as follows:**

Section 1. Declaration of Legislative Findings and Intent. The City Council finds that since 1998, when the Board of Education transferred to the Police Department responsibility for the performance of school safety functions, the presence of police personnel in the public schools has increased dramatically. City schools now have more than 5,000 School Safety Agents and at least 200 armed police officers, making the NYPD's School Safety Division the fifth largest police force in the country.

The City Council finds that the Department of Education has increased its reliance on police personnel to enforce discipline in the schools, including in non-criminal and non-violent situations. The result has been an increase in the use of police tactics to handle day-to-day student discipline matters, including such tactics as intrusive searches of students and their belongings, and arrests of students for minor non-criminal violations of school rules. The Council is concerned that this increasing reliance on punitive measures to enforce discipline is incompatible with a positive and respectful learning environment in the schools and undermines students' right to a quality education. Rather than these punitive approaches, supportive interventions—such as mediation, counseling, and conflict resolution—can be used to promote student safety and teach positive behavioral skills.

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The City Council is also concerned about school safety policies having a disproportionate impact on students of color. Police personnel are far more likely to be involved in non-criminal incidents at high schools with permanent metal detectors; such schools are populated with students who are disproportionately poor, black, and Latino. According to NYPD data, in schools with metal detectors, the vast majority of incidents in which the NYPD is involved in are classified as non-criminal.

The Council finds that there are few mechanisms in place to ensure adequate accountability and oversight of police practices in the schools. Such oversight is essential both to the safety and well-being of all students regardless of actual or perceived race, national origin, ethnicity, religion, disability, sexual orientation, gender or sex, and to the maintenance of the public's trust and confidence in the Police Department and the Department of Education.

This legislation, which is known as the "Student Safety Act," is intended to address the above concerns. In order to learn more about police practices in the schools, and to provide parents, students, and educators with an accessible way to seek redress, this legislation will expand the jurisdiction of the Civilian Complaint Review Board ("CCRB") to accept complaints against abusive School Safety Agents. The public currently has the right to file a complaint with the CCRB regarding abusive police conduct on the streets. This legislation will allow the public to file similar complaints with the CCRB against abusive police behavior in the schools.

This legislation will also require quarterly reporting to the City Council by the Department of Education and Police Department on school safety matters. Improved transparency in school safety and disciplinary practices is necessary to ensure effective

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oversight of the impact of these policies on the educational environment. The new reporting requirements will allow the public to acquire information on interactions between police personnel and students as well as the impact of these interactions on the learning environment

Student interaction with School Safety Agents is close and regular, rendering them especially vulnerable to acts of retaliation. Therefore, the Council stresses the importance of the prosecution of all acts of official misconduct proscribed by §195.00 of the New York State Penal Law.

Nothing in this legislation should be construed as limiting the rights of students and parents under the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g).

§2. Section 440(c)(1) of chapter 18-A of the New York City Charter is amended to read as follows:

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department and against School Safety Agents in the police department's School Safety Division that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner. No finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis for any such finding or recommendation.

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§3. Section 150 of title fourteen of the administrative code is amended to read as follows:

a. The New York City Police Department shall submit to the city council on a quarterly basis the following materials, data and reports:

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8. A report based on the information provided in the police department's Criminal Incident Report and School Safety Incident Report and any successor report, form, or worksheet. Such report shall include the number of incidents reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex and student status (general education, special education, or resource room) of the suspects and victims involved in each incident reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; the number of incidents due to metal detector or magnetometer scanning as reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; the type of police action taken, including the number of individuals arrested or issued a summons, and, if applicable, the section of the penal code that was allegedly violated (categorized by class, indicating whether it is a felony, misdemeanor, or violation), following each incident as reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex and student status (general education, special education, or resource room) of the individuals

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against whom police action was taken as reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; the number of non-criminal incidents reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; a description of each non-criminal incident reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education; and a breakdown by race/ethnicity, age, sex and student status (general education, special education, or resource room) of the suspects and victims involved in each non-criminal incident reported in the Criminal Incident Reports and School Safety Incident Reports for each school operated by the Department of Education.

§4. Chapter 20 of the New York City Charter is amended by adding a new section 530, to read as follows:

§ 530. The Department of Education, or its successor, shall submit to the City Council on a quarterly basis the following materials, data and reports:

- a. A report on student suspensions and expulsions, including the total number of superintendent suspensions in each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students subjected to a superintendent suspension in each school operated by the Department of Education; the infraction code, or codes, related to each incident that resulted in a superintendent suspension in each school operated by the Department of Education; the duration of each superintendent suspension in each school operated

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by the Department of Education; the total number of principal's suspensions in each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students subjected to a principal's suspension in each school operated by the Department of Education; the infraction code, or codes, related to each incident that resulted in a principal's suspension in each school operated by the Department of Education; the duration of each principal's suspension in each school operated by the Department of Education; the total number of removals from a classroom by a teacher in each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students subjected to removal from the classroom by a teacher in each school operated by the Department of Education; a description of each incident that resulted in removal from the classroom by a teacher in each school operated by the Department of Education; the duration of each removal from the classroom by a teacher in each school operated by the Department of Education; the total number of expulsions in each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students subjected to expulsion in each school operated by the Department of Education; the infraction code, or codes, related to each incident that resulted in each expulsion in each school operated by the Department of Education; the total number of students who have left (for example, due to a transfer to another school, referral to a disciplinary alternative school, or transfer

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to a detention facility) each school operated by the Department of Education; the discharge and transfer codes related to each instance of a student leaving each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students who have left each school operated by the Department of Education; the number of discharges, and the discharge code or codes related to each discharge, in each school operated by the Department of Education; a breakdown by race/ethnicity, age, sex, and student status (general education, special education, or resource room) of students who are discharged by each school operated by the Department of Education.

§5. Severability. If any provision of this bill or any other provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situations shall not be affected.

§6. This local law shall take effect ninety days after it is enacted.