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Attachments: 1. Summary of Int. No. 2211, 2. Int. No. 2211, 3. February 11, 2021 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 2-11-21, 5. Committee Report 2/18/21, 6. Hearing Testimony 2/18/21, 7. Hearing Transcript 2/18/21, 8. Minutes of the Stated Meeting - February 11, 2021

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Int. No. 2211

By Council Members Levin and Perkins

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to public school safety and security

Be it enacted by the Council as follows:

Section 1. Section 435 of the New York city charter is amended by adding a new subdivision e to read as follows:

e. On and after the earlier of June 30, 2022 or the date on which the certification required by subdivision c of section eight of the local law that added this subdivision is made publicly available online and submitted to the speaker of the council, the police department and force shall not perform or supervise any safety or security functions for a public school, provided that nothing herein shall prevent an employee of such department and force from taking an action authorized or directed by a court of competent jurisdiction or that

such employee reasonably believes to be necessary to address an imminent risk to public safety or property.

§ 2. Section 14-106 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. Notwithstanding subdivision c or e of this section or any other provision of law, the commissioner shall not appoint a person as a special patrolman, and shall by no later than August 31, 2021 revoke any such appointment made before such date, if (i) such person's duties include the performance or supervision of safety or security functions for a public school, or (ii) such person is an officer or employee of the department of education.

§ 3. Section 14-107 of the administrative code of the city of New York is amended to read as follows:

§ 14-107. Unlawful use of police uniform or emblem. a. It shall be unlawful for any person not a member of the police force to represent himself or herself falsely as being such a member with a fraudulent design upon persons or property, or to have, use, wear or display without specific authority from the commissioner any uniform, shield, buttons, wreaths, numbers or other insignia or emblem in any way resembling that worn by members of the police force. A violation of this section shall constitute a misdemeanor punishable by a fine of not more than one hundred dollars or by imprisonment for not more than sixty days, or both.

b. The commissioner shall not authorize a person to have, use, wear or display any such uniform, shield, buttons, wreaths, numbers or other insignia or emblem if, pursuant to subdivision g of section 14-106, such person is prohibited from being appointed as a special patrolman. The commissioner shall by no later than August 31, 2021 revoke any such authorization made before such date.

§ 4. Section 14-121 of the administrative code of the city of New York is amended to read as follows:

§ 14-121. Details to special duty. A transfer, detail or assignment to special duty of any member of the force, except in cases authorized or required by law, shall not hereafter be made or continued, except for police purposes and in the interests of police service, provided that no such transfer, detail or assignment to special

duty that includes performance or supervision of safety or security functions for a public school, shall be made or continued after the earlier of June 30, 2022 or the date on which the certification required by subdivision c of section eight of the local law that added subdivision e of section 435 of the charter is made publicly available online and submitted to the speaker of the council. The commissioner, however, whenever the exigencies of the case require it, may make a detail to special duty for a period not exceeding three days, at the expiration of which the member or members so detailed shall report for duty to the officer of the command from which the detail was made.

§ 5. Paragraph 3 of subdivision a of section 14-150 of the administrative code of the city of New York, as amended by local law number 5 for the year 2005, is amended to read as follows:

3. A report detailing the number of uniformed personnel and civilian personnel assigned to each and every patrol borough and operational bureau performing an enforcement function within the police department, including, but not limited to, each patrol precinct, housing police service area, transit district and patrol borough street crime unit, as well as the narcotics division, fugitive enforcement division and the special operations division including its subdivisions, but shall not include internal investigative commands and shall not include undercover officers assigned to any command. [Such] Until the earlier of June 30, 2022 or the date on which the certification required by subdivision c of section eight of the local law that added subdivision e of section 435 of the charter is made publicly available online and submitted to the speaker of the council, such report shall also include, for each school operated by the department of education to which school safety agents are assigned, the number of school safety agents, averaged for the quarter, assigned to each of those schools.

§ 6. Section 14-152 of the administrative code of the city of New York, as amended by local law number 93 for the year 2015, and subdivision b of such section as amended by local law number 71 for the year 2016 and subdivisions c, e and f of such section as added by local law number 93 for the year 2015, is amended to read as follows:

§ 14-152[.] School activity reporting. a. Definitions. For purposes of this section, the following terms

[shall] have the following meanings:

Data. The term “data” means final versions of statistical or factual information in alphanumeric form that can be digitally transmitted or processed.

Department personnel. The term “department personnel” means police officers and, until the transition date, school safety agents employed by the department.

English language learner. The term “English language learner” means a student with limited English proficiency as defined in section 154-1.2 of title 8 of the official compilation of the codes, rules and regulations of the state of New York or any successor regulations.

Force. The term “force” includes but is not limited to the use of (i) a firearm; (ii) physical force; (iii) a chemical agent; (iv) a baton; (v) mechanical restraints, except when used in the course of making an arrest; or (vi) a conducted energy device.

Mechanical restraints. The term “mechanical restraints” means any device or material attached or adjacent to the body that restricts freedom of movement or normal access to any portion of the body and that the individual cannot easily remove, including handcuffs and nylon/Velcro restraining devices.

Transition date. The term “transition date” means the earlier of June 30, 2022 or the date on which the certification required by subdivision c of section eight of the local law that added subdivision e of section 435 of the charter is made publicly available online and submitted to the speaker of the council.

Violation. The term “violation” means alleged student misbehavior occurring within a New York city public school or on school grounds that does not constitute a felony or misdemeanor and that, if committed by an adult, would constitute an offense defined by a section of the penal law.

b. Report of activity relating to schools. The department shall submit to the council and the department of education, and post to the department’s website, on a quarterly basis a report based on data reflecting criminal summons, civil summons, arrest, and any violation activity and response by department personnel in a New York city public school or on school grounds from the preceding quarter. Such report shall be

disaggregated by school building and the command of department personnel conducting the activity, and shall include, at a minimum:

1. The total number of individuals arrested or issued a criminal summons in a New York city public school or on school grounds by department personnel and whether those individuals were students, school personnel or other individuals;

2. The total number of violations that occurred in a New York city public school or on school grounds to which department personnel responded; and

3. [the] The total number of individuals issued a civil summons in a New York city public school or on school grounds by [school safety agents or police officers assigned to the school safety division of the department] department personnel; and

4. The total number of incidents where individuals were subjected by department personnel to mechanical restraints within a New York city public school or on school grounds, and whether those individuals were students, school personnel or other individuals.

c. For the data provided pursuant to paragraphs one and two of subdivision b, such report shall include: (i) the charges, [(including applicable section of law)]; (ii) whether the incident occurred in connection with metal detector or magnetometer scanning; and (iii) whether department personnel used force and the type of force used. The data provided pursuant to paragraph 1 of subdivision b shall also specify whether the charge was a felony, misdemeanor or violation and whether the incident with respect to which the arrest or issuance of a summons occurred was school-related, in that it occurred within a New York city public school or on school grounds or was otherwise related to the public school community.

d. The data provided pursuant to paragraphs one through three of subdivision b shall, for each such paragraph, where practicable based upon the manner in which the applicable records are maintained, be disaggregated by race/ethnicity, year of birth, gender, and, where the individual is a student, whether the individual is receiving special education services and whether the individual is an English [Language Learner]

language learner, provided that such disaggregated data reported pursuant to this subdivision shall not be reported for each school building but rather shall be reported by patrol precinct.

e. Use of permanent and temporary metal detectors. The department shall submit to the council and the department of education on a quarterly basis a report including: (i) a list of school buildings with permanent metal detectors; (ii) a list of school buildings subjected to random scanning; (iii) a list of schools that have requested the removal of metal detectors; and (iv) a list of schools for which a requested removal of metal detectors has been honored. In addition, the department shall on an annual basis report on the amounts and types of contraband seized as a result of metal detector scanning, disaggregated by school building. Such types shall include but not be limited to firearms, knives, [boxcutters] box cutters and laser pointers.

f. Report of school-related complaints against [school safety agents] department personnel. The department shall submit to the council and the department of education on a quarterly basis a report of complaints originating at or relating to a New York city public school or on school grounds against [school safety agents] department personnel from the preceding quarter. Such report shall include, at a minimum, disaggregated by patrol precinct:

1. The total number of complaints originating at or relating to public schools against department personnel during the preceding quarter, including but not limited to complaints alleging excessive use of force, abuse of authority, discourtesy or use of offensive language, with abuse of authority complaints disaggregated by specific allegations of disputed arrest and confiscation of student property;

2. The number of [open] such complaints that were open at the end of the preceding quarter, [and] the number of days each such open complaint has been pending, [result] the current status of [the] each such open complaint, and, for each complaint that originated during the preceding quarter and was resolved during the preceding quarter, the result of such complaint;

3. The total number of complaints that originated before the beginning of the preceding quarter and remained open at the end of the preceding quarter, the number of days each such open complaint has been

pending, the current status of each such complaint, and, for each complaint that originated before the beginning of the preceding quarter and was resolved during the preceding quarter, the result of such complaint;

[3.] 4. The number of [school safety agents] department personnel with one or more open complaints, regardless of when such complaints originated, who have been the subject of a prior complaint and the average number of complaints of which such department personnel have been the subject; and

[4.] 5. The number of injuries sustained by department personnel resulting from student misconduct within a New York city public school or on school grounds, including the number of times that department personnel have as a result of such misconduct been transferred by emergency medical services, whether provided by the fire department or another authorized ambulance service, for medical evaluation or treatment.

g. Public education. [Operators] Until the transition date, operators of the 311 system shall inform any caller seeking to make a complaint originating at or relating to public schools against a school safety agent that the complaint will be electronically transferred to the internal affairs bureau of the [New York city police] department. On and after the transition date, such operators shall inform (i) any caller seeking to make a complaint originating at or relating to public schools against school safety personnel, as such term is defined in section 21-1001, that the complaint will be electronically transferred to the department of education and (ii) any caller seeking to make a complaint originating at or relating to public schools against department personnel that the complaint will be electronically transferred to the internal affairs bureau of the department.

h. Disclosure limitations. The information, data and reports required by this section shall be subject to the disclosure limitations of section 14-150 of this chapter.

i. Reports due at end of reporting period. The information, data and reports required by this section shall be provided to the council and the department of education, and posted to the department's website, within 30 days [of] after the end of the reporting period to which the reports correspond or for which the relevant data may be collected, whichever is later. Where necessary, the department may use preliminary data to prepare the required reports and may include an acknowledgment that such preliminary data is non-final and subject to

change.

§ 7. Title 21-A of the administrative code of the city of New York is amended by adding a new chapter 29 to read as follows:

CHAPTER 29

SCHOOL SAFETY

§ 21-1001 Definitions.

§ 21-1002 Additional school safety plan requirements.

§ 21-1003 School safety personnel activity reporting.

§ 21-1001 Definitions. For purposes of this chapter, the following terms have the following meanings:

Data. The term “data” means final versions of statistical or factual information in alphanumeric form that can be digitally transmitted or processed.

English language learner. The term “English language learner” means a student with limited English proficiency as defined in section 154-1.2 of title 8 of the official compilation of the codes, rules and regulations of the state of New York or any successor regulations.

Force. The term “force” includes but is not limited to the use of (i) a firearm; (ii) physical force; (iii) a chemical agent; (iv) a baton; (v) mechanical restraints, except when used in the course of making an arrest; or (vi) a conducted energy device.

Mechanical restraints. The term “mechanical restraints” means any device or material attached or adjacent to the body that restricts freedom of movement or normal access to any portion of the body and that the individual cannot easily remove, including handcuffs and nylon/Velcro restraining devices.

School. The term “school” means a public school.

School function. The term “school function” means a school-sponsored or school-authorized extra-curricular event or activity regardless of where such event or activity takes place, including any event or activity that may take place in another state.

School property. The term “school property” means in or within any building, structure, athletic playing

field, playground, parking lot or land contained within the real property boundary line of a school, or in or on a school bus, as such term is defined in section 142 of the vehicle and traffic law.

School safety personnel. The term “school safety personnel” means persons who are primarily engaged in the performance or supervision of school safety or security functions, including school safety agents, supervisors of school security, associate supervisors of school security and administrative school safety managers.

Transition date. The term “transition date” means the earlier of June 30, 2022 or the date on which the certification required by subdivision c of section eight of the local law that added subdivision e of section 435 of the charter is made publicly available online and submitted to the speaker of the council.

Violation. The term “violation” means alleged student misbehavior occurring on school property or at a school function that does not constitute a felony or misdemeanor and that, if committed by an adult, would constitute an offense defined by a section of the penal law.

§ 21-1002 Additional school safety plan requirements. a. The chancellor shall adopt, update as needed and implement a school safety plan that complies with the requirements of this section. Such plan shall be developed and adopted in the same manner as a comprehensive district-wide school safety plan described by section 2801-a of the education law and may be included within the comprehensive district-wide school safety plan adopted under such section for the city district, as such term is defined in section 2590-a of the education law. Nothing in this section shall be construed to supersede any provision of the education law.

b. On and after August 31, 2021, the plan required pursuant to subdivision b of this section shall:

1. Establish that the duties of school safety personnel do not include making arrests;

2. Prohibit school safety personnel from doing any of the following while on duty, or on school property or at a school function:

(a) Carrying, possessing or using a weapon, including a firearm, a baton, oleoresin capsicum pepper spray or any other chemical agent intended for self-defense or subduing another person, a dangerous instrument

as such term is defined in subdivision 13 of section 10.00 of the penal law or a deadly weapon as such term is defined in subdivision 12 of such section;

(b) Carrying, possessing or using any mechanical restraint;

3. Prohibit school safety personnel from wearing a uniform, shield, buttons, wreaths, numbers or other insignia or emblem in any way resembling that worn by employees of the police department or any other law enforcement entity; and

4. Require school safety personnel and school administrators to undergo periodic training in the following topics:

(a) Safety and security procedures that honor the dignity and humanity of students and educators;

(b) Child and youth development;

(c) Trauma-informed care;

(d) Therapeutic crisis intervention in schools;

(e) Restorative justice;

(f) Social-emotional learning;

(g) Prosocial behaviors among students and adults;

(h) De-escalation;

(i) Conflict mediation;

(j) The department's supportive environment framework;

(k) Cultural responsiveness;

(l) Implicit bias;

(m) Equity;

(n) The department's respect for all program based on chancellor's regulation A-832;

(o) The requirements of title IX of the education amendments of 1972; and

(p) Community building.

§ 21-1003 School safety personnel activity reporting. a. On and after the transition date, the department shall submit to the council, and post to the department's website, on a quarterly basis a report based on data reflecting school safety personnel activity and response to any incidents of misconduct that occurred on school property or at a school function from the preceding quarter. Such report shall be disaggregated by school and the type of school safety personnel conducting such activity and response, and shall include, at a minimum:

1. The total number of incidents of criminal misconduct on school property or at a school function to which school safety personnel responded, and whether the individuals involved were students, school personnel or other individuals; and

2. The total number of incidents of civil misconduct on school property or at a school function to which school safety personnel responded, and whether the individuals involved were students, school personnel or other individuals;

b. For the data provided pursuant to paragraph 1 of subdivision a of this section, such report shall include: (i) the type of response by the school safety personnel; (ii) whether the incident occurred in connection with metal detector or magnetometer scanning; (iii) whether school safety personnel used any force and the type of force used; and (iv) whether the incident involved misconduct that constitutes a felony, misdemeanor or violation.

c. The data provided pursuant to subdivision a shall, for each paragraph of such subdivision, where practicable based upon the manner in which the applicable records are maintained, be disaggregated by race, ethnicity, or both; year of birth; gender; and, where the individual is a student, whether the individual is receiving special education services and whether the individual is an English language learner.

d. Use of permanent and temporary metal detectors. The department shall submit to the council on a quarterly basis a report including: (i) a list of school buildings with permanent metal detectors; (ii) a list of school buildings subjected to random scanning; (iii) a list of schools that have requested the removal of metal detectors; and (iv) a list of schools for which a requested removal of metal detectors has been honored. In

addition, the department shall on an annual basis report on the amounts and types of contraband seized as a result of metal detector scanning, disaggregated by school building. Such types shall include but not be limited to firearms, knives, box cutters and laser pointers.

e. Report of complaints against school safety personnel. The department shall submit to the council on a quarterly basis a report of complaints originating on school property or at a school function against school safety personnel from the preceding quarter. Such report shall include, at a minimum, disaggregated by school:

1. The total number of such complaints that originated during the preceding quarter, including but not limited to complaints alleging excessive use of force, abuse of authority, discourtesy or use of offensive language, with abuse of authority complaints disaggregated by specific allegations of disputed use of force and confiscation of student property;

2. The number of such complaints that were open at the end of the preceding quarter, the number of days each such open complaint has been pending, the current status of each such open complaint and, for each complaint that originated during the preceding quarter and was resolved during the preceding quarter, the result of such complaint;

3. The total number of complaints that originated before the preceding quarter and remained open at the end of the preceding quarter, the number of days each such open complaint has been pending, the current status of each such complaint, and for each complaint that originated before the preceding quarter and was resolved during the preceding quarter, the result of such complaint;

4. The number of school safety personnel with one or more open complaints, regardless of when such complaints originated, who have been the subject of a prior complaint and the average number of complaints of which such school safety personnel have been the subject; and

5. The number of injuries sustained by school safety personnel resulting from student misconduct on school property or at a school function, including the number of times that school safety personnel have as a result of such misconduct been transferred by emergency medical services, whether provided by the fire

department or another authorized ambulance service, for medical evaluation or treatment.

f. Reports due at end of reporting period. The information, data and reports required by this section shall be provided to the council, and posted to the department's website, within 30 days after the end of the reporting period to which the reports correspond or for which the relevant data may be collected, whichever is later. Where necessary, the department may use preliminary data to prepare the required reports and may include an acknowledgment that such preliminary data is non-final and subject to change.

§ 8. a. For purposes of this section, the following terms have the following meanings:

Chancellor. The term “chancellor” has the meaning ascribed to such term in section 21-950 of the administrative code of the city of New York.

Department of education. The term “department of education” has the meaning ascribed to the term “department” in section 21-950 of the administrative code of the city of New York.

School. The term “school” means a public school.

School safety personnel. The term “school safety personnel” means persons who are primarily engaged in the performance or supervision of school safety or security functions, including school safety agents, supervisors of school security, associate supervisors of school security and administrative school safety managers.

b. As soon as practicable and by no later than June 30, 2021, the mayor, the police commissioner and the chancellor shall develop, make publicly available online and submit to the speaker of the council a plan for taking all necessary and appropriate steps, including the steps described in this section, to transfer to the department of education all school safety or security functions performed by the police department.

c. As soon as practicable and by no later than June 30, 2022, the mayor, the police commissioner and the chancellor shall (i) take all necessary and appropriate steps, including the steps described in this section, to transfer to the department of education all school safety or security functions performed by the police department and (ii) make publicly available online and submit to the speaker of the council a certification that

all such steps have been taken.

d. School safety personnel employed by the police department shall be transferred to the department of education with corresponding civil service titles, in accordance with subdivision 2 of section 70 of the civil service law.

e. Any agency or officer to which are assigned any functions, powers and duties pursuant to this local law shall exercise such functions, powers and duties in continuation of their exercise by the agency or officer which heretofore exercised the same and shall have power to continue any business, proceeding or other matter commenced by such agency or officer relating to such functions, powers and duties. Any provision in any law, rule, regulation, contract, grant or other document relating to the subject matter of such functions, powers or duties, and applicable to the agency or officer which heretofore exercised the same shall, so far as not inconsistent with the provisions of this local law, apply to the agency or officer to which such functions, powers and duties are assigned pursuant to this local law.

f. Any rule or regulation in force on the effective date of this local law, and promulgated by an agency or officer whose power to promulgate such type of rule or regulation is assigned pursuant to this local law to some other agency or officer, shall (i) continue in force as the rule or regulation of the agency or officer to whom such power is assigned, except as such other agency or officer may hereafter duly amend, supersede or repeal such rule or regulation, and (ii) be reviewed by the chancellor or a designee thereof.

g. If any of the functions, powers or duties of any agency or officer is assigned pursuant to this local law to another agency or officer, all records, property and equipment relating to such assigned function, power or duty shall be transferred and delivered to the agency or officer to which such function, power or duty is so assigned.

h. No existing right or remedy of any character accruing to the city of New York shall be lost or impaired or affected by reason of the adoption of this local law.

i. No action or proceeding, civil or criminal, pending at the time that this local law takes effect that was

brought by or against the city of New York or any agency or officer shall be affected or abated by the adoption of this local law or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any agency or officer party thereto may pursuant to this local law be assigned to another agency or officer, but in that event the same may be prosecuted or defended by the head of the agency or the officer to which such functions, powers and duties have been assigned pursuant to this local law.

j. Except as provided in subdivision d, whenever pursuant to any provision of this local law, functions, powers or duties are assigned to any agency or officer which have been heretofore exercised by any other agency or officer, officers and employees in the classified city civil service who are engaged in the performance of such functions, powers or duties may, upon agreement by the mayor, the police commissioner and the chancellor, be transferred to the agency to which such functions, powers or duties may be assigned pursuant to this local law.

k. Nothing contained in this local law shall affect or impair the rights or privileges of officers or employees of the city of New York or of any agency existing at the time that this local law takes effect, or any provision of law in force at the time that this local law takes effect and not inconsistent with the provisions of this local law, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights or any other rights or privileges of officers or employees of the city of New York generally or officers or employees of any agency.

l. Officers and employees who are transferred from the police department to the department of education pursuant to this local law shall be transferred without further examination or qualification and shall retain their respective civil service classification and status; and shall be transferred without affecting existing compensation or pension or retirement rights, or other privileges or obligations of such officers and employees.

m. It is the intent of this local law to protect those rights enumerated in this section as they apply to officers and employees of the police department and department of education who are affected by the transfer

of school safety and security responsibilities from the police department to the department of education. In the event of a reduction in force or the elimination of a job title at the department of education, all affected employees, including employees who transferred to that agency as a result of the transfer of responsibilities authorized by this local law, shall be entitled to all the protections afforded under applicable provisions of the civil service law and collective bargaining agreements.

n. Any license, permit or other authorization in force on the effective date of this local law, and issued by an agency, where the power of such agency to issue such license, permit or authorization is assigned pursuant to this local law to another agency or officer, shall continue in force as the license, permit or authorization of such other agency or officer, except as such license, permit or authorization may expire or be altered, suspended or revoked by the appropriate agency or officer pursuant to law. Such license, permit or authorization shall be renewable in accordance with the applicable law by the agency or officer with such power pursuant to law, including this local law.

§ 9. This local law shall not be construed to change, require a change or authorize a change to the collective bargaining representation or rights of any employees affected by this local law. Where any law or rule relating to collective bargaining representation or rights refers to school safety agents, supervisors of school security, associate supervisors of school security or administrative school safety managers who are employed by the police department, such reference shall be deemed to include school safety agents, supervisors of school security, associate supervisors of school security or administrative school safety managers, as applicable, who are employed by the department of education.

§ 10. To the extent that any memorandum of understanding or other agreement between the mayor, the police commissioner and the chancellor, whether in effect on the effective date of this local law or thereafter, is inconsistent with this local law, the terms of this local law shall control.

§ 11. The provisions of this local law are severable and if any phrase, clause, sentence, paragraph, subdivision or section of this local law, or the applicability thereof to any person or circumstance, is held

invalid, the remainder of this local law and the application thereof will not be affected thereby.

§ 12. This local law takes effect immediately.

JJ

LS #8,241; LS #9,981; LS #10,008; LS #11,269; LS #11,270; LS #13,850; LS #15,703; LS #15,529
2/1/21; 11:01 a.m.