



501 3rd Street, NW · 8th Floor
Washington, DC 20001
T 202.467.4900 · F 202.467.4949
childrenslawcenter.org

Testimony Before the District of Columbia Council
Committee on Education
February 13, 2018

Public Hearing:
Performance Oversight Hearing
Public Charter School Board

Renee Murphy
Supervising Attorney - Policy
Children's Law Center

Introduction

Good morning Chairman Grosso and members of the Committee. My name is Renee Murphy. I am the Supervising Attorney in the policy team of Children's Law Center¹ and a resident of the District. I am testifying today on behalf of Children's Law Center, which fights so every DC child can grow up with a loving family, good health and a quality education. With more than 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. Nearly all the children we represent attend DC public schools.

We are pleased to testify at this Performance Oversight hearing about the Public Charter School Board (PCSB). PCSB is nationally regarded as a strong and active charter school authorizer. We have appreciated successfully working with PCSB in the past on issues such as

- school continuity for children who find permanent loving families to exit foster care,
- concerns about problems in particular schools regarding special education, and
- law change from the 2014 special education reforms requiring each public charter school be its own LEA for special education, which went into effect in July 2017.

We also appreciate PCBS's commitment to authorizing new charter schools that fill important niches, such as alternative or adult education and special education. It is in this context that we focus today on additional steps that the most vulnerable and marginalized students need the District, and PCSB as part of District education leadership, to take to reform special education, better assist English learners and their families, target funding to at risk students, and improve student engagement in school.

CHILDREN WHO NEED SPECIAL EDUCATION

Special Education Reforms

Although PCSB is not the key player to move the District forward on reforms for special education students from the *Enhanced Special Education Services Act of 2014* (ESESA), we have appreciated their general support over the years, and their work to ensure that LEAs have the information they need to prepare to implement the law.²

Those reforms include:

- Start post-secondary transition services earlier, at age 14³
- Evaluate children for disability and their needs faster, within 60 days⁴
- Expand infant and toddler early intervention services to children with 25% delay⁵
- Sustainably fund the partnership and innovation fund called the Special Education Enhancement Fund⁶

Once the District funds these best practices, which we expect to see in the Fiscal Year 2019 proposed budget, children will benefit from receiving services earlier, and schools will benefit from children catching up with earlier interventions.

Celebrating Improvements in Transition Services

Under federal special education law, schools are obligated to develop “transition plans” for special education students between ages 16 and 22 years old to help them prepare for life after high school.⁷ Recognizing the importance of these transition activities, the *Enhanced Special Education Services Act of 2014* lowers the age at which transition planning must begin to age 14.⁸ Transition services include a wide range of activities that prepare students with disabilities for the unique challenges they face as they pursue post-secondary education, integrated employment, independent living, or vocational training. Those services are provided by schools but also by rehabilitation services agencies for pre-employment training and assistance.⁹ In our experience, transition planning for youth with disabilities tends to be cursory and lack helpful programming for students to actually explore or experience careers or work environments. For example, in public schools throughout DC, we have seen “transition plans” that consist of a goal for the student to perform a Google search.¹⁰ The recent improvements we have seen with real assistance and experiences for youth with disabilities need to be celebrated and expanded.

PCSB's work with the Office of the State Superintendent for Education (OSSE) and the Rehabilitation Services Agency within the Department of Disability Services, bringing in the expertise of the DC Special Education Cooperative, has already resulted in significant increases in the number of charter school students receiving higher quality transition services.¹¹ Experiences offered to students with disabilities include paid work experience and an innovative spring break work readiness training opportunity.¹² The fact that 42% of participating students had paid internship experiences during high school is a landmark achievement that we expect will help improve the dismal college and career outcomes for DC students with disabilities¹³ as we watch this cohort of students in the coming years. We hope that PCSB and other leaders will continue making sure that these programs expand, and participation rates increase further, so that students with disabilities in all public schools in DC have supports and programming for post-secondary transition.

Accountability and Recommendations for Quality of Special Education

PCSB states commitment to tracking and accountability for inclusion of and the academic progress of children with disabilities. We hope to see PCSB exercise even more follow up in this area. For example, PCSB monitors unverified enrollment and midyear withdrawal data,¹⁴ as a signal about whether students with disabilities are truly being welcomed and served. It continues to be our experience that charter schools do counsel out students with disabilities instead of expelling them and sometimes

children with disabilities do not complete enrollment because the charter school requires a copy of the IEP before considering the child to be fully enrolled.¹⁵ In our experience, even schools with these enrollment policies do not insist that *all* children with disabilities turn in the additional paperwork before they are considered fully registered, but selected children because of particular needs. We hope that PCSB continues to monitor and intervene when even small disparities exist.

PCSB's orientation to outcomes and progress is welcome. However, unless or until all schools are expected to improve the progress of children with disabilities at a significant rate and supported in doing that, outcomes for children will continue to stagnate at dismal levels. PCSB articulated very thoughtful analysis of barriers to high quality special education as well as elements of successful schools in this year's oversight responses.¹⁶ Specifically, that smaller charter schools encounter expertise and staffing challenges to serve children with all different types of needs, that experienced general educators prepared to teach children with disabilities are hard to find as are special educators who are polymaths, that special education leaders spend too much time on data access challenges, and that schools need to be able to get full teams trained in crisis and trauma-informed intervention. Several recommendations logically follow from those observations, which we hope that PCSB will be a leader to ensure these become available:

- High quality, intensive training for general education teachers about specific ways to include and teach children with disabilities
- Ongoing funding for the Special Education Enhancement Fund which allows schools to get funding for collaborations and partnerships with each other and with disability experts, in order to serve the full spectrum of students
- A reliable special education data system that works for schools
- Crisis intervention trainings at times that allow multiple staff members from each school to attend

AT RISK FUNDING

The District has committed, through the per student funding formula, to providing extra resources to children who are low income or falling behind in school. Last year, Chairman Grosso and the Committee on Education required important reports about the use of “at-risk funds” from all public schools, because of concerns that the additional funds have been spent on core regular staff positions and to improve budget transparency and accountability. At Children’s Law Center, the majority of our clients qualify for “at-risk” funding, because they are involved with foster care or are very low income.¹⁷ As a city, we all have a stake in ensuring that all public school use those funds as intended. As we testified in the past, there are many enrichment and specific supports, such as trauma-sensitive schools, specific supports from children in foster care, evidence-based or promising academic supports, and afterschool or

meaningful credit recovery programs, that schools could and should be funding.¹⁸ We look forward to seeing the report from the public charter schools about how they have been spending the “at-risk” funds.

In addition, concerning students who qualify for at risk funds, we are intrigued by PCSB’s support of an optional at risk preference in the lottery.¹⁹ Such a preference, depending how designed, could assist diverse students, including children in foster care, to access high-performing charter schools. If such a preference could also exist for mid-year transfers, along with other changes in policies that would allow easier credit and records transfer, that would also benefit children in foster care who often must move in the middle of a school year.²⁰ We look forward to more discussion of this preference and policy changes to assist children who are vulnerable in the District.

ENGLISH LEARNER STUDENTS

As a member of the DC Language Access Coalition, we continue to be concerned that our public schools are not doing enough to ensure the full inclusion and participation of limited English proficient students and parents. We all know that parental engagement and participation is incredibly important to a child's success in school. In our experience, both public charter schools and DCPS schools have not invested in the training, resources, and personnel necessary to fully engage with parents who speak limited English. As PCSB pointed out in their response to this year’s performance oversight questions, English Language Learners at PCSs are less career

and college ready than their DCPS peers.²¹ While we are pleased that PCSB has taken proactive steps to monitor the quality of ELL academic programming for ELL students, it does not report taking proactive steps to measure its schools' compliance with applicable civil rights and language access laws.^{22,23}

The *Language Access for Education Amendment Act* works on addressing some of these issues by requiring language access liaisons in schools serving high numbers of non-English proficient families.²⁴ Students, parents, and community advocates provided extensive input for creating this important piece of legislation. We thank the Public Charter School Board for meeting with Language Access Coalition members over the spring and summer of 2017 to find some common ground about how to ensure there are personnel in the schools to help English learner students and their families access their schools. While we are very disappointed that the legislation has not yet moved out of the Committee of the Whole, we thank you, Councilmember Grosso, for your continued support of the bill.

SCHOOL ENGAGEMENT

Truancy/Chronic Absenteeism

As we have stated for many years, if our students are not in class, none of our education reforms in the District matter. Despite some improvements in previous years, more than one in four students in the 2016-2017 school year were chronically absent—an increase from the previous school year.²⁵ That is one in four students who

missed more than 10% of vital instructional time.²⁶ However, one concern is that this statistic mixes students who are totally absent with students who are tardy, because of the OSSE regulation defining absent as missing 20% of the day or more, referred to as the “80/20 rule.”²⁷ We also note that the figure includes students who have been suspended from school and students in both sectors who have been suspended without documentation, from such practices as “Do Not Admit” lists or calls to parents to come get children.²⁸ These undocumented suspensions happen, in our experience, with about equal frequency in DCPS and PCS. The fact is that attendance data continues to be inaccurate, and that those inaccuracies have serious consequences for children and families. Inaccuracies entangle parents and children in traumatic investigations or court proceedings,²⁹ including criminal prosecutions of parents.³⁰

Students miss school for many reasons, and addressing those barriers must be made a priority. The District has gathered some data about causes of truancy in DC. For example, DCPS reported that in SY2016-2017, the following were listed as persistent barriers to students’ regular school attendance in Student Support Team (SST) notes: academic concerns, health, transportation, family issues, clothing, day care, “parentified” minors and executive life management issues.³¹ We have less information from charter schools, PCSB and OSSE do not compile data on this issue from charter schools. Some schools, both DCPS and charter, are working to address many of these barriers, but their efforts are mostly siloed. Individual schools cannot solve this

problem on their own. We know that PCSB is monitoring truancy rates under its DC PCSB Attendance and Truancy Policy and working with schools with concerning trends.³² Their current Attendance and Truancy Policy, however, does not encourage schools to work with the families needing the most help to improve attendance.³³ We encourage PCSB to help charter schools intervene early at the family-level, before children become chronically absent and drop out of school. The student, parents, teachers and other staff who work with the child on a regular basis should be the heart of any truancy reduction effort.

School Discipline

One significant barrier to attendance is actively counteracting the citywide messaging that attending school every day is critical to student success—exclusionary discipline. As we testified just a few weeks ago, we have a suspension crisis in the District. It is a crisis because the statistics reveal that suspension is being used in a discriminatory fashion. African-American and Latinx children are suspended at dramatically higher rates than other children. So are children with disabilities, children in foster care, children living in poverty and children who are homeless. It is a crisis because instead of figuring out what children need to be successful and learning, we are excluding them from class and depriving them of fair access to an education. But, the suspension crisis is not new. Students, parents, advocates and teachers have been calling for reform for years. And, although some good work has been done by some

schools, children are still being suspended at extremely high rates in public schools throughout DC.

The data from OSSE shows that 7.4% of students were suspended out of school in SY2016-2017.³⁴ Unfortunately that data is not reliable. Some schools have dishonestly lowered their suspensions numbers with practices such as “Do Not Admit” lists and other off-the-books suspensions, instead marking students with unexcused absences.³⁵ In our experience, some charter schools use an “involuntary early dismissal,” another name for a partial day of suspension out of school, which deprives students exhibiting behavior difficulties of hours of instruction. Children who are “involuntary early dismissed” get marked with full day absences if excluded from 20% or more of the school day. Even using the flawed data provided to OSSE, suspension numbers have stopped going down and still remain at crisis levels. There was almost no reduction in the number or percentage of students suspended in SY2015-2016 and 2016-2017—and almost one in 15 children were suspended from school as least once.³⁶

This is a problem that can be solved, which is why Children’s Law Center supports the *Student Fair Access to School Act of 2017*. We realize that the PCSB opposes the legislation, but a floor of rights for students is necessary in District law, in order to reverse the current crisis of discriminatory impact. However, in addition to passing the bill, resources must be invested in this effort. We urge PCSB to partner with the other

education agencies to help ensure full funding and staffing in the schools to implement solutions to problem behavior rather than out-of-school exclusion.

CONCLUSION

Thank you for the opportunity to testify, and I welcome any questions.

¹ Children’s Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With more than 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And, we multiply this impact by advocating for city-wide solutions that benefit all children.

² PCSB FY17 Performance Oversight Responses, Q25.

³ Under federal special education law, schools are obligated to develop “transition plans” for special education students between ages 16 and 22 years old to help them prepare for life after high school. Recognizing the importance of these transition activities, the *Enhanced Special Education Services Act of 2014* lowers the age at which transition planning must begin to age 14. This change was to be effective July 2016, but a small amount of funding was not included in OSSE’s last budget.

⁴ Specifically, once funded, the *Enhanced Special Education Services Act of 2014* requires LEAs to evaluate and diagnose students within two months rather than more than a semester. Currently, schools have 120 days to complete the evaluation, the longest timeline in the nation. The impact that faster diagnosis and thus faster services will have on students cannot be understated.

⁵ In DC, too many babies and toddlers have unaddressed developmental delays and as a result start school behind. The good news is that 46 percent of children who get early intervention services completely catch up and several years later they are still doing as well as peers, according to national research. See, Hebbeler, K., Spiker, D., Bailey, D., Scarborough, A., Mallik, S., Simeonsson, R., & Singer, M. (2007). *Early intervention for infants & toddlers with disabilities and their families: Participants, services, and outcomes. Final report of the National Early Intervention Longitudinal Study (NEILS)*, https://www.sri.com/sites/default/files/publications/neils_finalreport_200702.pdf. Under the *Enhanced Special Education Services Act of 2014*, children who are 25% delayed in one area of development would have become eligible for DC EIP in July 2017, if expansion had been funded. This reform would finally bring DC’s eligibility in line with most states.

⁶ The *Special Education Quality Improvement Act of 2014* established a Special Education Enhancement Fund (SEEF). The SEEF is to provide additional funding for capacity expansions, including partnerships, collaborations, satellite classrooms for specific high-needs students, joint training, and development of programs for overage youth with intensive special education needs.

⁷ 34 C.F.R. § 300.320(b)(2).

⁸ See, *Enhanced Special Education Services Act of 2014– DC Act 20-487*. The Act contemplated the change would be made in July 2016.

⁹ PCSB FY17 Performance Oversight Responses, Q23

¹⁰ For example, a student who has never played on a basketball team may have a transition plan that says that they will Google search what it takes to be a professional basketball player. While such a reality check may be helpful, it is not a plan towards a successful life after high school.

¹¹ The increase from 243 to 330 students receiving assistance from RSA as a result of the increased coordination is extremely good news. See, PCSB FY17 Performance Oversight Responses, Q23, p. 45. Although we do not have exact comparative data, the fact that 109 students received eligibility determinations before graduating from high school is also a landmark achievement. Many families have found it difficult to pull together all the needed documentation to get help with training or employment after students graduate, so these determinations are extremely important for families and young adults with disabilities.

¹² PCSB FY17 Performance Oversight Responses Q23.

¹³ Indicator 14 from the 2015-16 school year, the most recent audited data that OSSE submitted to the Federal government. See, OSSE (Spring 2017) *IDEA Part B Annual Performance Report to the Public Federal Fiscal Year 2015*, accessed November 17, 2017 at <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/FFY%202015%20APR%20Report%20to%20the%20Public.pdf>

¹⁴ PCSB FY17 Performance Oversight Responses, Q20, 21.

¹⁵ We have not examined all enrollment steps for all PCS, but IEPs and 504 Plan documents are required to complete enrollment at several schools, which can be easily seen on some PCS websites.

<http://www.inspiredteachingschool.org/families/new-student-enrollment/>, <http://www.dcpsb.org/sites/default/files/2017-2018%20Student%20Handbook%20%28RSZK%29%28KIPPDC%28LEA%29%29.pdf> at p. 7.

¹⁶ PCSB FY17 Performance Oversight Responses, Q26 and 27.

¹⁷ D.C. Code § 38-2901(2A).

¹⁸ For more detailed recommendations, see our testimony from the “At Risk Funding for Schools” Public Roundtable, October 26, 2017, at

<https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20--%20At-Risk%20Funding%20for%20Public%20Schools.pdf>

¹⁹ PCSB FY17 Performance Oversight Responses, Q8.

²⁰ For further explanations of the challenges for children and youth in foster care or other government care and solutions that we recommend for the District, see our testimony from the Public Roundtable Hearing on “Education for Students During and After Detention, Commitment, or Incarceration,” at <https://www.childrenslawcenter.org/sites/default/files/attachments/testimonies/CLC%20Testimony%20--%20Education%20of%20Committed%20Youth.pdf>

²¹ PCSB FY17 Performance Oversight Responses, Q13.

²² *Id.* at 51 (Q28).

²³ We recommend PCSB expand the “Mystery Caller Initiative” to include checks for compliance with Title VI of the Civil Rights Act and DC’s Language Access Act. The caller could pose as a parent who speaks limited English to see whether the school’s front line staff use interpretation, as required. Currently, the Mystery Caller Initiative checks to make sure schools are not discriminating by counseling parents of children with disabilities not to apply to their schools. *Id.* at 40.

²⁴ See Language Access for Education Amendment Act of 2017, Secs. 6a and 6b.

²⁵ OSSE (2017). *District of Columbia Attendance Report SY 2016-17*, p. 11.

²⁶ *Id.* “Chronic absence” is defined as being absent – either excused or unexcused – for more than 10% of instructional days a student was enrolled across all schools and sectors in a given school year.

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- ²⁷ Absence is a full or partial day when the students is not in scheduled periods of instruction. Partial day absence is missing at least 20% of the instructional hours of the day, which is deemed a full school day when absence is unexcused. Present is defined as in class 80% of the day or more. 5-A DCMR § 2199.1. *See also*, Perry Stein, Is D.C.'s '80/20' attendance rule unfair to students?, WASH POST (December 29, 2017). Retrieved from https://www.washingtonpost.com/local/education/is-dcs-8020-attendance-rule-unfair-to-students/2017/12/29/b328d8ba-e517-11e7-833f-155031558ff4_story.html?utm_term=.e5f72df5a074
- ²⁸ Emma Brown and Alejandra Matos, Some D.C. high schools are reporting only a fraction of suspension, WASH POST (July 17, 2017). Retrieved from https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?nid&utm_term=.a4ea63e9fdcf
- ²⁹ Requirements for referrals to CFSA and Court Social Services Division of the Family Court at D.C. Code § 38-208(c)(1)(A) and § 38-208(c)(1)(B). Year after year, nearly all children referred to CFSA for educational neglect were either screened out (never investigated because CFSA did not suspect neglect) or have been found to be unsubstantiated. In SY2013-2014, 96% of case referrals were unsubstantiated; *see* CFSA FY14 Performance Oversight Responses, Q22. In SY2014-2015, 97% of case referrals were unsubstantiated; *see* CFSA FY15 Performance Oversight Responses, Q29. In SY2015-2016, 97% of case referrals were unsubstantiated; *see* CFSA FY16 Performance Oversight Responses, Q14.
- ³⁰ Find Cite for criminal prosecution with attendance
- ³¹ DCPS FY17 Performance Oversight Responses, Q50e.
- ³² DC Public Charter School Board. Attendance and Truancy Policy. Retrieved from <http://www.dcpsb.org/sites/default/files/report/Attendance%20and%20Truancy%20Policy%20SIGNED.pdf>.
- ³³ DC Public Charter School Board. Attendance and Truancy Policy. Retrieved from <http://www.dcpsb.org/sites/default/files/report/Attendance%20and%20Truancy%20Policy%20SIGNED.pdf>.
- ³⁴ *See* Every Student Every Day Coalition Report (2014). *District Discipline: The Overuse of School Suspensions and Expulsion in the District of Columbia*. *See also*, OSSE (2017). *State of Discipline: 2016-17 School Year*.
- ³⁵ Emma Brown and Alejandra Matos, Some D.C. high schools are reporting only a fraction of suspension, WASH POST (July 17, 2017). Retrieved from https://www.washingtonpost.com/local/education/some-dc-high-schools-reported-only-a-small-fraction-of-suspensions/2017/07/17/045c387e-5762-11e7-ba90-f5875b7d1876_story.html?nid&utm_term=.a4ea63e9fdcf
- ³⁶ In SY2015-16, 7,324 students (7.8 percent of the total population) were suspended 12,695 times. *See*, OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 10-11. In SY2016-17, 7,181 students (7.4 percent of the total population) were suspended 12,897 times. *See*, OSSE (2017). *State of Discipline: 2016-17 School Year*, p. 11 and p. 21.