

**Testimony of Nicole Tuchinda, J.D., M.D.**

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“Public Schools in DC Secretly Suspend Children in Violation of Law and Fairness”

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My name is Nicole Tuchinda, and I am a Supervising Attorney and Clinical Teaching Fellow at Georgetown University Law Center’s Community Justice Project: Health Justice Alliance, a medical-legal partnership in D.C. This testimony is my own and does not represent the views of Georgetown.

Why is this legislation needed now? The answer is that suspensions by public schools in DC are harming children and are out of control. They are surrounded by a culture of defiance to the law, secrecy, and retaliation.

Let me illustrate. Last spring, when I was a Supervising Attorney at the University of District of Columbia School of Law’s Juvenile and Special Education Law Clinic, I represented a parent whose fifteen year old daughter was suspended multiple times at Dunbar High School. The school failed to document most of the alleged infractions. Typically, after the child was “disruptive” in school, Dunbar’s Dean or a Vice Principal would tell the parent to pick the child up and would prohibit the child from returning for several days. The school required the parent to accompany the child in order to return to school, which caused the parent to miss work regularly. Even though this type of undocumented suspension happened so many times that the child missed over 50 days of school, the school held no proper meetings called manifestation determination reviews, or MDRs, to determine whether the child’s behavior was a manifestation of her disability.

I repeatedly asked for documentation of all of the student’s suspensions, which should have been part of the child’s school records, but Dunbar refused to provide it.

As I asked more questions, I found that Dunbar was informally suspending this child and many others through the use of “do not admit lists.” Dunbar’s Dean of Students and vice principals sent these lists almost every day by email to every teacher and administrator in the school. These lists identified the children who were not to be permitted into the school or classroom and they stated when a child’s parents had to accompany the child in order to return to school. I asked for those lists many times, but my requests were met with either silence or cover-up.

I asked DCPS attorneys, DCPS compliance, Dunbar staff, Superintendent David Pinder, and even DCPS’s Chancellor for the do not admit lists. No one was willing to talk about these lists, and no one gave them to me, even though they were often the only record of the child’s suspensions. I only got these lists through a Freedom of Information Act request, just like the Washington Post did last summer.

When I asked, teachers and security guards acknowledged that do not admit lists existed, but they only spoke off the record and expressed fear of retaliation from their superiors. The special education coordinator once looked me in the eye and told me that the school principal “did not have do not admit lists to give me, so maybe they don’t exist.” I later found that he and everyone I spoke to at the school

received those lists almost daily. Top Dunbar administrators told me to stop talking to teachers and threatened me with baseless bar complaints. Dunbar fought to keep the truth hidden.

Even though I was involved, Dunbar continued to suspend my client's child with impunity because Dunbar labeled her a troublemaker.

It seemed nothing could stop Dunbar's suspensions. An OSSE Hearing Officer – who acts as an administrative law judge - ordered Dunbar to immediately end a suspension of the child when the school failed to conduct a proper MDR. But Dunbar defied that order for weeks until Superintendent Pinder intervened.

Did these secret suspensions harm the child? Absolutely. They were as devastating to her as the traumas underlying her disability of emotional disturbance. Those traumas included seeing people shot at her mother's workplace. As a result of Dunbar's treatment, this child's depression and anxiety worsened, and trusting school staff became much more difficult. The message the child received was that Dunbar did not care about her. Dunbar was more interested in excluding her than teaching her or meeting her needs. As a result of these informal suspensions, this child missed so much school that she was unable to pass ninth grade.

Was this an isolated case? No. A state complaint that I filed caused OSSE to conclude in October of last year that these violations were systemic. OSSE found that Dunbar failed to keep its data consistent between its do not admit lists, attendance lists, and student behavior records in 91% of cases. OSSE concluded that "DCPS's record keeping is inadequate to ensure that disciplinary procedures are followed, the rights of students with disabilities are protected, and necessary services are provided during removals."

OSSE also found that for 100% of Dunbar students who required educational services during their suspension, DCPS failed to provide those services as required by law. And DCPS failed to provide an MDR to most of Dunbar's children with disabilities who needed one.

Ironically, despite the harm to so many children, at the time these findings came out, no one appeared to suspend or expel any member of Dunbar's leadership team for their violation of the rules. Why do we expect children to follow rules when their own educators fail to model compliance?

This problem isn't just a problem at DCPS either – these types of problems happen regularly at DC public charter schools, as my other clients can attest.

Thank you, councilmember Grosso, for offering a systemic solution to a systemic problem. This legislation will shine a light onto secret practices that have harmed too many students. Requiring public schools to send data about their disciplinary practices to OSSE will strengthen OSSE's ability to oversee and stop violations of law. This legislation will encourage schools to attempt to meet the needs of children with disabilities rather than exclude them. Investing in trauma-informed education is the solution to ending misbehavior that stems from trauma. This legislation makes sense because every child deserves a quality education. I hope that city council provides additional funding to strengthen each of this legislation's requirements. Thank you for your consideration.