



# Advocates for Justice and Education, Inc.

*The federally designated Parent Training and Information Center for Washington DC*

Testimony of Maria E. Blaeuer  
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Before the District of Columbia Council  
At the Oversight Hearing for the Public Charter School Board  
Friday, February 15, 2019

Good Morning, Committee Chairman Grosso, members of the Committee on Education. My name is Maria Blaeuer, and I am the Director of Programs and Outreach at Advocates for Justice and Education (AJE). AJE is the federally designated Parent Training and Information Center (PTI) for the District of Columbia, it is our responsibility to provide free training, resources, individual assistance and support to parents and youth in navigating the special education process, negotiating school selection and placement, and addressing matters of school discipline, especially for students with disabilities. Naturally, this means we work with charter school families.

We also work collaboratively with many DC organizations and agencies to provide training for community members, families, and professionals on topics related to children with disabilities and special needs. We also partner with community organizations to provide comprehensive information and support to families about all aspects of the public education system in DC, this includes individual charter schools where we provide free parent training and free professional development to charter school staff. We also partner with groups like the Special Education Cooperative and MySchoolDC to make sure that all DC families have access to the full range of school choice and can make informed decisions. In the past we have worked with the PCSB on events and would be happy to do again. We were especially thankful to be able to participate in EdFest this year, where we connected with over 200 families. We were able to address some still all-too-common misconceptions about school choice in DC, provide resources to families navigating the process, and in many cases, connect the family to the resource right there at EdFest.

In the last fiscal year, we trained over 1,000 parents, students and professionals on special education and other educational topics. We also served over 700 families through direct services; these families come to us for advice, guidance, and help understanding their rights, understanding special education, and how to advocate for their children. Approximately one third of the families we talk to come from the charter sector. From our direct work with families over the years, AJE is uniquely aware of many of the challenges families and students face, including in the charter sector.



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We are pleased to see the recent attempts by the PCSB to provide more transparency regarding charter school operations. We support the recent efforts in the community and on the Council to require charter schools to comply with the same transparency requirements that DCPS complies with, specifically the Open Meetings Act and the Freedom of Information Act and believe this is important for the democratic oversight of public resources.

In addition to increased transparency, we see other areas where the Council, the PCSB and other stakeholders can collaborate to improve how the PCSB does its work and how the charter sector in DC operates. These concerns are primarily in three areas – **Gaps in Governance, Capacity Challenges and School Discipline.**

- 1. Governance Gaps** – Asserting their need for “autonomy,” the PCSB and affiliated organizations have resisted efforts to strengthen governance, monitoring and oversight of the charter section by OSSE and occasionally, even the Council. These are public schools and this lack of oversight has harmed, and continues to harm, children because the primary enforcement tool the PCSB has is drastic – charter revocation, which can cause harm in and of itself. Many of the families we work with have had to scramble to find and transition their children to new schools. This is in particular more challenging for families with lower incomes, or who have students with special education needs.

An example of a huge gap in governance, is that right now **there are no statutes or regulations addressing the use of restraint and seclusion, other than criminal law**, that apply to any public school in DC.<sup>1</sup> This means half of the children, in DC’s public school system, those in the charter sector, are utterly unprotected and without recourse, if they are physical held down by staff or locked alone in a closet. DCPS at least has a policy that addresses restraint and seclusion which also applies to students with disabilities attending nonpublic schools, who are also protected by OSSE regulations<sup>2</sup> governing nonpublic schools. Currently, and unless we address this gap in governance now, there is no requirement that a charter have any policy whatsoever regarding the use of restraint and seclusion, although thankfully some charters have opted to incorporate a policy about this into their handbooks without being required to do so. This is a real issue for families in both DCPS and charter schools – right now I

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<sup>1</sup> For more information about the use of restraint and seclusion in DC and the lack of regulation of restraint and seclusion, please see Disability Rights’ DC at ULS’s excellent report, available at <http://www.uls-dc.org/S%20and%20R%20Report%203%203%2017%20-%20Final.pdf> as well as reporting in Politico - <https://www.politico.com/magazine/story/2017/11/29/department-education-violent-discipline-special-needs-children-215881>.

<sup>2</sup> DCMR 5-A2816 et seq



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have 2 families on my caseload, both in charter schools, whose children have experienced restraint and seclusion, and my colleague does as well.

We ask the Council to follow the lead of the bi-partisan positions taken by former Secretary of Education Arnie Duncan<sup>3</sup> to current Secretary of Education Betsy DeVos<sup>4</sup>, and pass legislation mandating that OSSE regulate restraint and seclusion in ALL public schools, both tradition and charter, and impose appropriate reporting requirements.<sup>5</sup>

Also, the licensure of special education teachers is another area where there is insufficient oversight and monitoring, as there is currently no requirement that special education teachers in charter schools be licensed as such.<sup>6</sup> ***We ask the Council to work together with the PCSB, OSSE and other stakeholders to establish a clear governance structure over the charter sector that addresses these gaps in governance.*** It is simply unacceptable that children who attend public charter school in DC have less qualified special education teachers and less protection from restraint and seclusion.

- 2. Capacity Challenges** – All Local Educational Agencies (LEAs) in the District of Columbia are required by law to provide a full continuum of placements to students with disabilities, from fully integrated inclusive settings to more restrictive settings for students who need them. OSSE has a process to support charter schools when a student with a disability needs a separate non-public day school. However, many students are referred to and placed at nonpublic schools when they could remain in their school, if only their LEA had the capacity and resources to provide them with what they need. The limitations of charter schools' capacity to fulfill their obligations under the Individuals with Disabilities

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<sup>3</sup> Former Secretary of Education Duncan's statement on the use of restraint and seclusion <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> and <https://www.pbis.org/seclusion-restraint/arne-duncans-letter>.

<sup>4</sup> Secretary of Education DeVos' recent statements on the use of restraint and seclusion <https://www.disabilitycoop.com/2019/01/18/ed-department-cracking-restraint-seclusion/25903/> and <https://www.disabilitycoop.com/2018/04/24/feds-restraint-seclusion-schools/25015/>.

<sup>5</sup> Currently OSSE has only issued nonbinding nonregulatory guidance regarding restraint and seclusion in schools <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/Non-Regulatory%20LEA%20Discipline%20Guidance.pdf>.

<sup>6</sup> Letter from Amy Maisterra April 5, 2016, <https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/ESSA%20Personnel%20Requirements.pdf>



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Education Act (IDEA) is particularly stark when we look at single campus smaller LEAs.

Many charter schools lack the infrastructure, resources and technical know-how needed to provide alternatives to suspension that the Student Fair Access to School Act (SFASA) requires. This is also a challenge for charter LEAs to comply with the IDEA's requirement to provide interim alternative educational placements for students who may be in crisis.<sup>7</sup> The recent coverage of Future Families Enrichment Center, an unlicensed, unregulated non-school placement that served as an interim alternative placement or disciplinary placement for several charter schools is an excellent, if unfortunate example, of the real life impact of this lack of capacity. Similar, the current OCR investigation into racially discriminatory discipline practices at another DC Charter School demonstrates how this lack of infrastructure, resources and technical know-how directly hurts children.

We ask the Council to ensure that all DC schools, including charters, are adequately funded to comply with all local and federal laws. We also ask the Council to work with the OSSE and the PCSB to encourage creative solutions to the capacity challenge, some of which may require legislative action to implement. Other jurisdictions have addressed the capacity challenges raised by small LEAs creatively, through multi-LEA cooperatives, intra-LEA contracted placements and SEA-supported schools. ***We strongly encourage the Council and the PCSB to work with other stakeholders to address these capacity issues, so that schools cannot place students in unlicensed, unregulated non-schools like the Future Families Enrichment Center and have the ability to serve all children.***

- 3. Discipline Disparities** – Despite self-reported reductions in out-of-school suspensions and expulsions in charter schools there are still significant disparities between the charter schools and DCPS when it comes to expulsion rates. We also see large disparities of expulsion rates between individual charter schools. There are charters who follow evidence-based practices where students are removed from school only as a last resort that could be models locally and nationally. However, there are other charters that continue to be outliers when it comes to out-of-school suspensions, expulsions and more informal ways of

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<sup>7</sup> Washington City Paper coverage of Future Families Enrichment Center  
<https://www.washingtoncitypaper.com/news/city-desk/article/21038004/special-ed-advocates-call-for-investigation-into-unlicensed-company-serving-charter-students>



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“school pushout.” Particularly concerning to us are the number of expulsions we continue to see in charter schools.<sup>8</sup> This may be linked to capacity issues; however, every expulsion from any public school should be a rarity and a last resort. Expulsions are uniquely harmful to students in charter schools. Students expelled from a charter are not only removed from their school, they lose their entire LEA, which means that the scope and sequence of their learning in the curriculum is changing, and frequently as is the curriculum. ***We ask that the Counsel use the reporting requirements of SFASA to explore the root cause of the expulsion rate in the charter sector.***<sup>9</sup>

Thank you for your time today.

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<sup>8</sup> For example, from the 2016/17 Discipline report, available at [https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/2016-17%20School%20Year%20Discipline%20Report.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2016-17%20School%20Year%20Discipline%20Report.pdf) “in the 2016-17 school year, 106 expulsions occurred in the District of Columbia. Those 106 expulsions were given to 100 total students; six of those students were expelled more than once. A student may be expelled from one school in the District of Columbia, enroll in another school, and be expelled from that school in the same year. **Of the 106 total expulsions, 103 occurred at public charter schools and three occurred at DCPS. Expulsions were concentrated at 38 schools within 23 LEAs.**” From the 2015/16 Discipline Report, available at [https://osse.dc.gov/sites/default/files/dc/sites/osse/page\\_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf](https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2015-16%20OSSE%20Discipline%20Report%20Updated%20Jan%206%202017.pdf)

“In the 2015-16 school year, 99 students were expelled from District public schools. **Of the 99 expulsions, 96 occurred at public charter schools and 3 occurred at DCPS. These expulsions were concentrated at 36 schools within 23 LEAs.** Male students were disproportionately expelled; while male students make up about 50% of the population, 66% (n= 66) of the 99 expelled students were male.”

<sup>9</sup> For context, AJE attorneys are aware of no attempted DCPS expulsions yet this school year, but we have represented families in two charter school expulsions and spoken to two more charter families facing expulsion (including one where a student was given the option to withdraw by their charter rather than be expelled).