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Testimony before the District of Columbia

Public Charter School Board

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Proposed Special Education Audit Policy

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Good evening, Chairman Jones and Public Charter School Board (PCSB) members. I am Judith Sandalow, Executive Director of Children's Law Center (CLC),¹ the largest non-profit legal services organization in the District of Columbia and the only such organization devoted to a full spectrum of children's legal services. Every year, CLC serves more than 2,000 low-income children and families, and through this work we interact with many children attending charter schools. We also represent many parents of children receiving or seeking special education services.

Thank you for this opportunity to testify on the proposed Special Education Audit policy. First, I must commend your staff for drafting this policy and focusing the charter school community's attention on the important issues of special education and school discipline. As public schools educating a large percentage of our students, DC charters have a central role to play in educating *all* students and this policy is a great step in highlighting the importance of that responsibility. In the past year, the PCSB has also released more data about suspension and expulsion rates, and we appreciate this increased level of transparency. My testimony focuses on our experience regarding special education, suspensions and expulsions, which supports the need for this increased oversight by the PCSB.

Special Education in the Charter Schools

As I mentioned, CLC has represented hundreds of clients in special education cases in recent years. Through this work, we have come to know many of the charter schools and their special education resources well. As in most things, each charter is unique and their special education services vary widely. Our clients have had some excellent experiences. For example, one of our clients is a 6-year old with a rare neurological disorder. Her charter school has done an excellent job to ensure she has the services and supports she needs. Her special education teacher recently attended a training session at Children's National Medical Center on this specific disorder. In another case, a kindergartener with autism and other significant medical issues received excellent

services from her charter school. The school met with her mother to plan for her daughter's needs before she started school this fall, assigned the child a nurse as a dedicated aide, hired an ABA consultant to do an assessment and then train all the staff. Other charter schools have worked very constructively with us to place children in appropriate private placements when it became clear that their needs were too intense to be met in a regular public school setting.

While we have these positive experiences, we have, unfortunately, had more negative experiences with charter schools that do not seem to feel it is their responsibility to educate students in need of special education services. For example, when one client brought her son's IEP to the school during an interview she was told the school was not a good fit and she should look elsewhere. In another case, the charter school said all it could offer in terms of special education services was inclusive instruction – rather than the range of services, individualized to the child's needs, which they are required by law to provide – so instead the child moved to DCPS. Other clients have been told by charter schools that their child is being dropped from the school's rolls and the parent should try to enroll their child in his or her neighborhood school.

More often than not, it seems charters are ill-equipped to provide the specialized services that students need and their teachers are not properly trained. This is especially true for students with social-emotional disabilities. Additionally, some charter schools have very specific visions about education and do not seem to have thought enough about how to integrate children with a variety of special needs into their model.

Though it is hard to generalize, we have found our clients have better experiences with LEA charters (independent charters those that provide their own special education services) rather than District charters (those charters that rely on DCPS as their special education LEA). The District charters often use their District status as an excuse to only offer limited special education services or placement types, with the rationale that if these options are not right for the child, the parent can

just withdraw the child and enroll in DCPS. As you know, charter enrollment is legally available² to all children in the District. It is unlawful and discriminatory for charters not to educate students with disabilities and, instead, send them to DCPS.

Suspension and Expulsion in the Charter Schools

As your FY2011-2012 data revealed, charter schools suspend and expel students at varying rates.³ Together, thousands of charter students are suspended and expelled annually. National data and our extensive experience show that suspension and expulsion policies are rarely applied fairly and evenly, and are borne disproportionately by minority students and students with disabilities. Schools exclude students with disabilities, particularly those with emotional and behavioral disorders, at disproportionately higher rates.⁴ Low-income students are also more likely to be suspended than their wealthier peers.⁵ Researchers have found that frequent suspensions are often used as a tool to push out low-achieving students or those with challenging behavior.⁶ For these reasons, we support the plan to analyze the data from schools to ensure special education students are being treated fairly and appropriately. It is also important to note that special education students have important legal protections⁷ when it comes to disciplinary practices so their rates of suspension and expulsion actually ought to be quite low if the law is being appropriately applied.

Suspension and expulsion doesn't just hurt the involved student, it also harms other children and negatively affects school culture. Research has found that removing students who violate school rules creates a school climate which less conducive to learning for those students who remain in school. Schools with higher rates of suspension and expulsion have less satisfactory ratings for school climate and spend a disproportionately higher amount of time on disciplinary matters than schools that exclude fewer students.⁸ Research also indicates a negative relationship between the use of school exclusion and school wide academic achievement.⁹ Schools have a responsibility to maintain a safe and welcoming learning environment for all students and there are many alternative

approaches to school discipline. Rather than using punitive measures such as suspension and expulsion, schools should employ evidence-based models which have demonstrated efficacy in promoting school safety, reducing school violence, and reducing school exclusion. These research-based approaches focus on school-wide, preventive strategies to create a school climate that is conducive to teaching and learning, with specific interventions for higher needs students who are engaging in disruptive behavior. Notable programs include: School-Wide Positive Behavioral Supports; Social Emotional Learning; Safe and Responsive Schools and Restorative Practices.¹⁰ Some of your charter schools are using positive models of school discipline. I hope their models can be shared and spread.

Conclusion

Overall, the policy you have drafted is a positive way to begin looking more closely at which schools are enrolling a particularly low number of special education students and which schools are disciplining these students more harshly than their non-special education peers. I have some small suggested additions to the policy which I have submitted as an addendum to my written testimony.

I hope this policy is just the beginning of your serious oversight into the special education services and practices of the charter schools. As I've mentioned, some charters have exemplary practices and it would be extremely helpful if you highlighted them so that other charters can learn from their experience. And when you find charters who are struggling, I hope you will offer the appropriate guidance and support. Thank you for the opportunity to testify today. I look forward to your questions.

¹ Children's Law Center works to give every child in the District of Columbia a solid foundation of family, health and education. We are the largest provider of free legal services in the District and the only to focus on children. Our 80-person staff partners with local pro bono attorneys to serve more than 2,000 at-risk children each year. We use this

expertise to advocate for changes in the District's laws, policies and programs. Learn more at www.childrenslawcenter.org.

² Section 504 of the Rehabilitation Act (29 U.S.C. §794); Title II of the Americans with Disability Act (42 U.S.C. §12132); the District of Columbia School Reform Act of 1995 (§38-1802.06(a)). *See also*: DC Office of the State Superintendent of Education, *Memorandum No. 09-005 Discrimination Against Children with Disabilities* (March 9, 2009).

³ DC Public Charter School Board, School Year 2011-2012 Suspension and Expulsion Rates by Public Charter School. Suspension and expulsion rates vary from 67% at Maya Angelou Public Charter School-Middle to many schools who reported discipline percentages under 5%.

⁴ American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, *American Psychologist* (December 2008) at 854.

⁵ Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, Indiana Education Policy Center (August 2000) at 11.

⁶ Russell J. Skiba, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, Indiana Education Policy Center (August 2000) at 13.

⁷ Per the Individuals with Disabilities Education Act students with disabilities are entitled to a manifestation hearing to determine if the conduct for which they are being disciplined was caused by, or had a substantial relationship to, the child's disability or the school's failure to implement the child's IEP. 20 U.S.C. §1415(k)(1)(E).

⁸ American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, *American Psychologist* (December 2008) at 854.

⁹ American Psychological Association Zero Tolerance Task Force, *Are Zero Tolerance Policies Effective in the Schools? An Evidentiary Review and Recommendations*, *American Psychologist* (December 2008) at 854. A relationship was found even when controlling for demographics such as socioeconomic status. The article notes that although such findings do not demonstrate causality, it is difficult to argue that suspension/expulsion creates a more positive school climate when it's use is associated with more negative achievement outcomes.

¹⁰ Rennie Center for Education Research and Policy, *Policy Brief: Act Out, Get Out? Considering the Impact of School Discipline Practices in Massachusetts* (May 2010) at 23-24.