



616 H Street, NW · Suite 300  
Washington, DC 20001  
T 202.467.4900 · F 202.467.4949  
[childrenslawcenter.org](http://childrenslawcenter.org)

Testimony Before the District of Columbia Council  
Committee on Education  
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Public Hearing:  
*State of School Discipline: 2015-2016 School Year*

Michael Villafranca  
Policy Analyst  
Children's Law Center

## **Introduction**

Good afternoon Chairman Grosso and members of the Committee on Education. My name is Michael Villafranca. I am a Policy Analyst at Children's Law Center<sup>1</sup> 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 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 of the children we serve attend public schools in the District.

I know this is an issue of importance to you, Chairman Grosso. The first hearing you held as Chair of this Committee, almost two years ago to date, was on the topic of student discipline. Thank you for your continued leadership on this important issue. As we have testified many times before, we too believe that this is an important issue. We believe, with our Every Student Every Day Coalition partners, that the District should strive to ensure that every student is in school every day of the school year. Unfortunately, we have a long way to go to achieve this goal. My testimony today will focus on: 1) the harmful effects of exclusionary discipline practices; 2) the disproportionate impact of exclusionary discipline on certain populations; and 3) our recommendations.

## **Harmful Effects of Suspension and Expulsion**

In the 2015-2016 school year, nearly 1 out of every 10 students attending public schools in the District received at least one form of exclusionary discipline.<sup>2</sup> Out-of-school suspensions alone keep thousands of DC's children out of school each year. According to OSSE's recently released report, "of the 94,053 students ever enrolled in the 2015-2016 school year, 7,324 received at least one out-of-school suspension..."<sup>3</sup>

It is firmly established that chronic school absence correlates with decreased academic performance, dropping out, substance abuse, and criminal activity.<sup>4</sup> Research over the past decade, however, has demonstrated that similar effects are evident for students who are suspended or expelled. Research also shows that suspension does not produce the desired effect – a student doesn't learn from his or her behavior and come back to school ready to behave and learn. A review of quantitative research conducted by the American Psychological Association found that more frequent usage of suspension and expulsion was associated with lower academic achievement across the school's entire student body, even when controlling for demographic factors and socioeconomic status.<sup>5</sup> These findings are reflected in the data from OSSE's SY2015-2016 report. For example, while there are other factors involved, it is not surprising that more than half of the students who attended the two public schools with the highest percentage of suspended students did not meet expectations on both the English Language Arts and Math portions of the PARCC.<sup>6</sup>

What is not reflected in OSSE's report are informal, undocumented suspensions for part or all of a school day, which are a big concern. During last school year, 9% of families who called us about education concerns had concern that their children were being sent home from school early (and some asked to stay home the next day as well) for disciplinary reasons without formal suspension paperwork. In one illustrative example, Marcus,<sup>7</sup> a prekindergarten student with a documented disability, was being informally sent home at 12:30 p.m. every day because of behavioral concerns, instead of being provided necessary therapy services. For Marcus and many others like him, the child's loss of many hours of instruction is not recorded as a suspension and not only puts him at risk for the harmful effects mentioned, but also avoids due process protections that apply under standard discipline regulations and the additional protections of the child's access to appropriate education under the Individuals with Disabilities Education Act (IDEA).

### **Disproportionate Impact of Exclusionary Discipline on Certain Populations**

The disproportionate impact of exclusionary discipline on students of color is significant and cannot be ignored. 10.4% of Black students and 2.5% of Hispanic students received at least one out-of-school suspension compared to less than a percent of White students.<sup>8</sup> I know that many other people will testify about this serious issue. I want to also highlight two other populations that continue to disproportionately suffer

the effects of harsh discipline policies: students with disabilities and students under the care of DC's child welfare system.

### *Students with Disabilities*

Students with disabilities are 1.4 times more likely to be suspended out of school, controlling for race and other factors, equaling 2,038 students with disabilities suspended.<sup>9</sup> However, the inequity is even worse when race is considered: 18% of African-American students with disabilities were suspended in SY2015-2016 compared to 5% of Hispanic and 2% of White children with disabilities.<sup>10</sup> In addition, 42.4% of students with disabilities who received any suspension were suspended two or more times, including 9.2% being suspended four or more times.<sup>11</sup> One third of children who are expelled are in special education, disproportionate to their 15% of the student population.<sup>12</sup>

As stated by the U.S. Department of Education, this indicates that children are not receiving the special education supports that they need.<sup>13</sup> In far too many cases, our clients' children are being suspended and missing learning time, instead of receiving the supportive interventions they need from the school. Suspension for children with disabilities was a problem in over one-third of the community special education cases we handled last school year.<sup>14</sup> For example, the story of a boy named Daniel is all too common. Daniel was a middle school student, with some limited special education services in his Individualized Education Program, which recognized that part of his

disabilities were poor social and coping skills. Daniel was being suspended on a regular basis for impulsive behavior and poor social interactions, like “disrupting the classroom.” Daniel was clearly being suspended for behavior related to his disability. Rather than helping Daniel by increasing or changing his services as legally required under the IDEA, he was just being pushed out of school.

### *Students under the Care of CFSA*

Students under the care of DC’s Child and Family Services Agency (CFSA) are 1.6 times more likely to receive at least one out-of-school suspension, holding all other characteristics constant. Of the students under CFSA’s care that received an out-of-school suspension during the 2015-2016 school year, over half received more than one.<sup>15</sup> Many of these children have histories of child abuse or neglect and removal from the home which can be traumatizing and negatively affect their school behavior. Many of them also encounter frequent disruptive school and placement changes, social stigma and isolation in school, and do not receive needed educational supports such as special education. Disciplinary actions taken against children in care can often have far more significant consequences than intended. One of our clients, Jonah, has already moved schools and foster placements dozens of times. However, last year and this fall, Jonah was being suspended on a regular basis for behaviors related to documented disabilities, as well as his trauma history. While the LEA plodded through a slow

process to get Jonah into an appropriate specialized school placement, Jonah continued to be suspended, which eventually caused his foster placement to disrupt.

## **Recommendations**

It is encouraging that suspensions and expulsions overall are down. However, both the Council and the schools can do more to keep students in school and learning.

*Limit the behaviors that can serve as grounds for suspension.*

Given the high number of suspensions and expulsions currently occurring in DC schools, school engagement programs should be accompanied by legislative changes that limit the use of exclusions to the most serious offenses. Of the more than 7,000 students who received at least one out-of-school suspension, at least 40% were suspended for subjective, relatively minor offenses that do not threaten the health or safety of other students or staff, such as disrespect, insubordination, disruption, and attendance related issues.<sup>16</sup> Separating students from their education for days, weeks, and months at a time is not a solution to unruly behavior, and it often makes matters worse. The Council should pass uniform legislation, covering all grades, which promotes developmentally appropriate and fair school discipline by limiting the use of exclusionary discipline to the most serious offenses, in which a student poses a physical danger to the school community. I would like to note that the legislature in our neighboring state of Virginia is currently considering such legislation.<sup>17</sup>

*Provide funding for schools to implement alternatives to exclusionary discipline.*

There are many evidence-based positive disciplinary approaches that keep students in school while also setting limits, teaching responsibility and appropriate behavior. DC already has a few of these programs in some of our schools, and we need to bring them to scale. For example, there are school-wide programs that work to create a better school climate, such as restorative justice, which provides direct mediation with the persons affected by the students' behavior. To encourage the utilization of alternatives, such as these, the District should create a funding stream to which school leaders could apply and, if granted, use the funds to implement evidence-based or promising practices designed to reduce their use of disciplinary exclusions.

*Exclusionary discipline practices should be defined in statute.*

OSSE's SY2015-2016 discipline report was a major step in the right direction for accountability on school discipline; however, as OSSE, itself, notes in its report, "[t]he District does not have standardized legal definitions or requirements for in-school suspensions, out-of-school suspensions, or expulsions for schools across educational sectors."<sup>18</sup> The only place in the DC Code where out-of-school suspension is defined is in the *Pre-K Student Discipline Amendment Act of 2015*, where for a narrow set of students suspension is defined as "for an entire school day or longer."<sup>19</sup> This lack of uniform legal nomenclature continues to produce particular challenges for the District's ability to be transparent and accountable. Worse, it results in children being informally



suspended for part of the school day, causing many students to miss many hours of their instruction time. This missed instruction and learning puts the child's achievement and engagement with school at risk, as well as skirts due process and disability protections. Therefore, the Council should appropriately define exclusionary discipline practices in the DC Code. In particular, out-of-school suspension should be defined to reflect *any* temporary removal of a student from his/her school for disciplinary reasons.

## **Conclusion**

The bottom line: If students are having behavior problems at school, we should be finding ways to strengthen their connection to education, not push them away. In other words, we need solutions, not suspensions. Thank you for continuing to champion this issue, Chairman Grosso, and for bringing us all here today to discuss this important topic. We look forward to working together with the members of the Committee on Education to ensure our schools are welcoming all students, that our principals and teachers have the training and resources they need to implement positive disciplinary approaches and that all of our students are in school every day and succeeding.

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<sup>1</sup> 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 be the voice 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 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.

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<sup>2</sup> Calculation by Children’s Law Center based on data from OSSE’s 2016 report, *State of Discipline: 2015-2016 School Year*, p. 10.

<sup>3</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 10.

<sup>4</sup> OSSE (2014). *Reducing Out-of-School Suspensions and Expulsions in District of Columbia Public and Public Charter Schools*, p. 7.

<sup>5</sup> Russell Skiba et al., American Psychological Association Zero Tolerance Task Force (2008). *Are Zero Tolerance Policies Effective in the Schools*, p. 5.

<sup>6</sup> Kramer Middle School and Monument Academy Public Charter School had the highest percentages of students who received out-of-school suspensions. See, OSSE (2016). *State of Discipline: 2015-2016 School Year*, Appendix B: In-School and Out-of-School Suspension Rates by School. If you look at their PARCC scores for the same school year, 62% of students at Kramer did not meet expectations in English Language Arts and 63% did not meet expectations in Math. Similarly, of the students who took the test at Monument Academy, 54% did not meet expectations in English Language Arts and 69% did not meet expectations in Math. See, OSSE (2016). *PARCC ELA School Level 2015-16 and PARCC Math School Level 2015-16*. Retrieved from <https://osse.dc.gov/node/1185345>

<sup>7</sup> We have changed our clients’ names and provided limited identifying details, to protect their confidentiality.

<sup>8</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 23.

<sup>9</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 34. Overall, 15% of students with disabilities were suspended, compared to 7.8% of all students.

<sup>10</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 37.

<sup>11</sup> Calculation by Children’s Law Center from data in *Id.* at p. 35-36. 865 students with disabilities were suspended two or more times, 189 were suspended 4 or more times, and 2,038 students with disabilities suspended one or more times. 6.4% of all students with disabilities were suspended two or more times.

<sup>12</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 15.

<sup>13</sup> U.S. Department of Education (August 1, 2016). *Dear Colleague Letter: Ensuring Equity and Providing Behavioral Supports to Students with Disabilities*.

<sup>14</sup> This proportion is about clients that Children’s Law Center represented through our medical-legal partnership, Healthy Together.

<sup>15</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 39.

<sup>16</sup> Calculation by Children’s Law Center based on data from OSSE’s 2016 report, *State of Discipline: 2015-2016 School Year*, p. 54.

<sup>17</sup> Virginia’s Legislative Information Systems, HB 1534, HB 1535, and HB 1536. Retrieved from <https://lis.virginia.gov/cgi-bin/legp604.exe?171+men+BIL>

<sup>18</sup> OSSE (2016). *State of Discipline: 2015-2016 School Year*, p. 8.

<sup>19</sup> D.C. Code § 38-271.01(5A).