



**Testimony of Scott Pearson
Executive Director
DC Public Charter School Board**

**Hearing on the School Based Budgeting and Transparency Amendment
Act of 2019 and At-Risk School Funding Transparency Amendment Act of
2019
Committee of the Whole and the Committee on Education
June 26, 2019**

Chairman Mendelson, Chairman Grosso, and councilmembers, thank you for inviting me to speak today on the issue of budget transparency for our public schools. I am Scott Pearson, Executive Director of the Public Charter School Board.

Fiscal transparency has been a cornerstone for the charter sector in DC for quite some time. Every public charter school is subject to an annual audit by a certified public accountant approved by a committee of the Public Charter School Board, the OCFO, and OSSE. We publish these audits on our website, along with schools' IRS tax returns and annual budgets.

We also require school auditors to provide us with supplemental financial information. For example, schools break down their expenditures into four categories – occupancy, personnel, student support, and administration so that they can be compared with each other on an apples to apples basis. In a sense these four categories are a nascent common chart of accounts as called for in the School Based Budgeting and Transparency Amendment Act.

We collect and publish supplemental information as well. For example, we collect and report detailed information on facilities expenditures by LEA. And, for the past four years we have collected from schools information on how they spend their at-risk dollars. Initially this collection was voluntary and, frankly, spotty. But last year we made this part of compliance calendar and were able to report to the council on at-risk expenditures for nearly every public charter school.

Beginning in 2011, we began publishing a report – the Financial Audit Review - that summarized for the public the results of school audits for easier public consumption. In this report, we show key financial numbers for each school. We also calculate ratios that indicate school financial health, and flag for the public areas where school health falls below our standards. This report, which

we produce with the OCFO and OSSE, is at the forefront of charter school transparency nationally.

This year, to improve accessibility, we created a transparency hub on our website that centralizes the important performance and financial documents we collect annually. Included in this transparency hub is information on school budgets, audits, at-risk funding usage, school calendars, charter agreements, and more. While much of this information was already available on our website, we realized that the organization of more than 96,000 pages of documents has not been as easy to navigate as it could be.

Our goal is that the public has good insight into the operations, expenditures, and outcomes of public charter schools, all while keeping the focus on the core mission of educating students.

That is why we established a transparency policy this year that will further expand the information our schools make publicly available on their websites. Among other information, this new policy will require public charter schools to publicly post their board of trustees meeting calendar, including listing the meetings that are open to the public, their approved board meeting minutes, the current salaries of the five most highly-compensated individuals in the organization, and their at-risk funding plans. I have attached a copy of the policy to my testimony for the record.

In many ways, the School Based Budgeting and Transparency Amendment Act of 2019 codifies many of the practices public charter schools are employing. We believe this is an important step in helping families understand how our schools are funded.

We have a few suggestions for how the proposed bill could be improved.

First, the bill calls for school budgets to be provided by December 31 of each year. That is far in advance of the timetable for most public charter schools in developing their budgets and I fear that the result will be budgets that are hastily assembled or are inaccurate. By comparison, we require budgets to be submitted on June first. This is after enrollment season by which time schools may submit budgets that more accurately reflects their anticipated enrollment. The goal here is transparency and accuracy, and we believe a later submission date would be consistent with that goal.

Second, the requirements in the School Based Budgeting and Transparency Amendment Act and the At-Risk School Funding Transparency Amendment Act both address reporting of expenditures of at-risk funds and to some extent overlap. We recommend that At-Risk School Funding Transparency

Act approach be used, as it is closer to the current practice and will provide the public with a clearer description of how funds are used.

Finally, we support open board meetings for public charter schools. Like you, we were troubled by two recent events where school boards voted to close their schools with little input from their staff or families. We support ensuring schools hold an open meeting when deliberating on budgets, school expansion, and especially questions of school closure. This is why we included it in our original transparency policy. If Council goes a step further, as envisioned in the School Based Budgeting and Transparency Act, we have a few suggestions that we think will help the practical application of the bill. As written, the bill seeks to subject the nonprofit school boards to the DC open meetings act (DC OMA), a law that is written for, and only applies to, government bodies. We believe there is a more appropriate approach that will address the unique nature of public charter schools.

Many advocates supporting an open meetings provision point out that DC is one of the only states that does not subject public charter schools to holding public meetings. This is true. However, just as each charter school is unique, each state's public charter school laws and education governance structures are unique. Some states allow for and encourage several authorizer types. Others only allow for a single type of authorizer. While there are other independent authorizers, they are not the sole authorizer for their jurisdiction. Most authorizers in the country are local school districts that charter schools operate under. Of all jurisdictions, Hawaii's charter authorizing is the closest to what is established in the District of Columbia. The sole authorizer for both is an independent government agency created through charter laws. Notably, with this unique structure, Hawaii exempts public charter school governing boards from the broader state open meeting requirements but must make their meeting notices, agendas, and minutes available to the public.

With this in mind, we ask this Council to reconsider subjecting public charter schools to every requirement of DC's OMA. Just like each state has its own authorizing apparatus, each state also has its own unique open government laws with varying requirements. Open meetings laws are applied differently to public charter schools and their governing boards based on jurisdiction and authorizer. For example, unlike DC, most states allow for executive sessions or closed meetings for discussions of real property acquisition or sale. Twenty-one states, including Louisiana and Minnesota, also allow for charter governing boards to close a meeting to discuss individual students. The current DC OMA would not allow a school's board to have discussions about these sensitive topics with the appropriate thoughtfulness they require.

In addition, noticing of public meetings differs widely from state to state. Alaska and Florida, for example, do not specify when a notice must be issued, only that it be “reasonable.” Many jurisdictions do not require the publishing of notices anywhere but the office of the public body and their website. Some states, like Connecticut, New Jersey, and Oklahoma, require meetings to be regularly scheduled and noticed at the beginning of the calendar year, with no additional noticing requirement except for special or rescheduled meetings.

Taking these facts into account, we ask you to revisit some of the DC OMA requirements as they would apply to charter schools and to add some exemptions to alleviate some of the more cumbersome aspects of the law, which was written with government boards in mind.

To start, the requirements should be separate and apart from the existing DC OMA. Charter schools are not governmental bodies and the DC OMA is written for governmental bodies. By making these requirements separate, they can be customized for the unique nature of public charter schools – specifically non-profits operating in competitive environments. For example, rather than publishing meetings in the DC register, which no family reads, it would be more appropriate that schools be required to post meeting notices in a public place, like their front offices and websites.

Closed session exemptions are another area where charter schools are different. The current DC OMA has exemptions for sensitive issues such as contract negotiation, discussing employee matters, attorney-client discussions, and several others pertaining to government business. As we read these exemptions, none would allow schools to confidentially discuss issues concerning individual students or matters that would materially affect their competitive position in relation to other public charter schools or enrollment. We would appreciate it if schools were afforded some flexibility in their ability to address these topics. By customizing the open meetings provisions specifically for non-profit public charter school boards, the law can avoid treating them as governmental bodies while being tailored to their unique circumstances.

Thank you for allowing me to testify today. We look forward to working with you to strengthen the bill to ensure a policy that works for everyone. I am happy to answer any questions you may have.

POLICY TITLE: DRAFT School Transparency Policy	
ADOPTION/EFFECTIVE DATE:	MOST RECENTLY UPDATED: March 18, 2019

PURPOSE

The purpose of this policy is to improve accessibility of information for DC public charter school families and other stakeholders by a) increasing the amount of school information publicly available, and b) requiring that schools post this information on their own websites. The DC Public Charter School Board (DC PCSB) has historically posted several school documents on its own website.¹ In addition to these existing documents and data, DC PCSB commits to including more information in the future and organizing the information to be easily accessible. However, not all stakeholders intuitively come to DC PCSB’s website when searching for school-specific information and, when schools make material changes to documents mid-year, the posted version on DC PCSB’s website becomes outdated. DC PCSB seeks to provide the public with more accurate information on public charter schools and, to this end, will require that schools publicly post certain documents to their own websites. Schools will be able to make corrections to documents on their websites as needed, whereas before outdated information remained on documents posted to DC PCSB’s website.

POLICY

Pending revisions to DC PCSB’s Data and Document Submission Policy, schools will be required to post the following documents publicly on their websites. They will be referred to as “Required Website Documents” throughout this policy.

Required Website Documents:

1. Charter school board of trustees meeting calendar, including a notation of which meetings are open to the public, in full or in part
2. Approved board meeting minutes
3. High school course offerings and graduation requirements
4. School calendar
5. Student/ Family Policies, which must include policies around:

¹ Schools currently submit documents to Epicenter based on what is listed on DC PCSB’s Annual Compliance Calendar.

- a. Discipline,
 - b. Attendance,
 - c. Grievance Procedures,
 - d. Non-Discrimination,
 - e. Family Educational Rights and Privacy Act (FERPA) Notice, and
 - f. Open Meetings²
6. Employee Policies, which must include board-approved policies around compliance with applicable employment law, including:
 - a. Sexual harassment,
 - b. Equal opportunity,
 - c. Drug-free work place,
 - d. Staff complaint resolution process, and
 - e. Whistleblower
 7. School budgets³
 8. Form 990s (non-profit tax filings)
 9. Current salaries of the five most highly-compensated individuals in the organization, if over \$100,000
 10. Description of at-risk funding plans
 11. Annual report
 12. Contact information for the following school staff: Title IX coordinator, McKinney-Vento Homeless coordinator; Special Education point of contact;
 13. Lottery procedures (schools not participating in My School DC)
 14. Student application (schools not participating in My School DC)
 15. Student enrollment form(s)
 16. Names of all school board members, and contact information for, at minimum, the Chair and Vice Chair (a general email address, e.g. Board@LEA.org, is acceptable)

The specifics of how this policy will be implemented are described in DC PCSB's Data and Document Submission Policy. The requirements of this Policy will not take effect until the Data and Document Submission Policy is revised to incorporate this Policy.

If DC PCSB anticipates updates to the list of Required Website Documents, staff will commit to holding a meeting with school leaders, school staff (via existing taskforces), and parent stakeholders (via the Parent and Alumni Leadership

² While DC PCSB does not prescribe a particular open meetings policy, schools will be required to develop a policy pertaining to board meeting accessibility. This policy shall include the number of open meetings the school plans to hold per year. DC PCSB will work with school leaders and other stakeholders to develop a best practice guide for schools.

³ DC PCSB will work with schools, OSSE, and other stakeholders to develop a common chart of accounts that will be required for budget submissions beginning with the 2020-21 school year.

Council [PALC])to solicit feedback. Any updates to the Required Website Documents will be made through revisions to this policy to include a public hearing and board vote.

Consequences:

Consequences for Late Submission of Website Links, Non-Submission of Website Links, Failure to Fix Broken Website Links, Failure to Keep Content Posted, or Material Changes to Content That Violate Applicable Law or the Charter Agreement are listed below.

Early Warning⁴

An Early Warning is an email sent to the head of school and Website Administrator by DC PCSB staff and is clearly labeled “early warning.” The Early Warning will provide a deadline for submitting the required website link, fixing the broken link, reposting a mandatory item that was removed from the website, or updating content before an Out of Compliance notice is issued.

Out of Compliance Notice

An Out of Compliance notice is an email specifically labeled “Out of Compliance” sent by DC PCSB’s executive director, deputy director, directors, or senior managers to the head of school and Website Administrator for failure to take required action within the timeframe provided in an Early Warning email. The Out of Compliance notice will provide a deadline for submitting the website link, fixing the broken link, reposting a mandatory item that was removed from the website, or updating content before a Notice of Concern is considered.

Notice of Concern

If a school fails to take required action within the timeframe provided in an Out of Compliance notice, the DC PCSB Board may vote to issue a Notice of Concern. Notices of Concern are taken into consideration during each school’s five- and ten-year charter reviews and during the charter renewal process, as well as when evaluating enrollment ceiling increase requests. The Notice of Concern will provide a timeframe for curing the issue before further Board action is considered.

⁴ This is the first notice for non-compliance

Board Approval Acknowledged By:



Rick Cruz
DC PCSB Board Chair

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