



District of Columbia

Office of the Ombudsman for Public Education

# 2016 ANNUAL REPORT

Joyanna Smith, Ombudsman for Public Education

DC Office of the  
**Ombudsman**  
for Public Education



# EXECUTIVE SUMMARY

## Continued growth in caseload and calls to office in School Year 2015–16

Due to more than two successful years in operation, the Ombudsman's Office continues to receive more requests for assistance every year since our first Annual Report was issued in September 2014. The Ombudsman's office accepted 478 complaints in School Year 2015–2016 (SY2015–16), a small increase from last school year. However, the overall caseload is particularly significant when we look at the number of calls that our office fielded during the school year. We received a lot more calls for assistance than our office could handle. Thus, we received approximately 740 calls and accepted 478 cases which represents an increase in the amount of calls to the office by 40%. In addition, we experienced a surge in cases in May and June 2016 even though we were at our lowest staffing levels. We worked on more cases per staff member this year than prior years in order to keep up with the increased demand. In addition, given the amount of calls, we had to resort to implementing a waiting list this school year. We look forward to the existing opportunity, this fiscal year, to increase the staff capacity to meet the demand for our services.

## Overview of complaints during School Year 2015–16

As in 2015, the office received complaints from all eight wards and the breakdown of the top three wards are still Wards 5, 7, and 8, which comprised 59.2% of the total amount of complaints received this school year. Similar to SY2015–16, the majority of complaints were from parents of District of Columbia Public School students and in comparison, nearly one-third of the 478 complaints came from parents of students in the District of Columbia public school system.

In SY2014–15, the top complaints were student discipline, special education, student safety, enrollment, bullying, and truancy/attendance issues. In SY2015–16, the top complaints were special education, access, school environment, academic progress, and student discipline.

## Representative Accomplishments

- **School Access/Enrollment/Special Education Funding:** A special education student was expelled from a public charter school and the parent did not know where or how to get her child enrolled at the in-boundary neighborhood school or another charter school. The Ombudsman's office leveraged existing relationships with the Public Charter School Board, DCPS Central Office, Deputy Mayor for Education (MySchoolDC) staff, and the community based organizations, Children's Law Center and the Special Education Cooperative, in order to determine proper enrollment policies, procedures, and practices for the transfer of a student to another charter school or DCPS school in the middle of a semester. One public charter school expressed concern about accepting a special education student late into the school year because there was concern regarding whether the school would receive full funding for special education students admitted late into the school year. While the funding issue might be an area for further discussion, we ultimately assisted the parent in enrolling her son at the appropriate school, which included funding for delivery of special education and related services.
- **School Access/Enrollment:** A parent attempted to enroll her 2nd grader at a DCPS school. Her son was transferring to a new in-boundary school because his family moved to another ward within the city. When the parent tried to enroll the student, the school initially refused to enroll her son because she presented an IEP with more than 20 service hours with her enrollment packet. The school informed the mother that they could not implement the services outlined in the IEP. The Office of the Ombudsman intervened by speaking to the school and articulating the rights that the student had to attend the school as per the Individuals with Disabilities Education Act (IDEA). Consequently, the student was enrolled at the school.
- **Application of McKinney-Vento Enrollment:** Our office assisted a homeless family who moved from another state into DC. When the parent tried to enroll her child, the school did not initially accept him because the parent was unable to provide all of the documents required as part of the enrollment packet. The school did not believe the student was entitled to protection under McKinney-Vento. The Ombudsman's office assisted the student with receiving protection under McKinney-Vento as the student fit the definition of homeless. Our office worked closely with DCPS to ensure the student was enrolled.

OFFICE OF THE OMBUDSMAN FOR PUBLIC EDUCATION  
ANNUAL REPORT 2016

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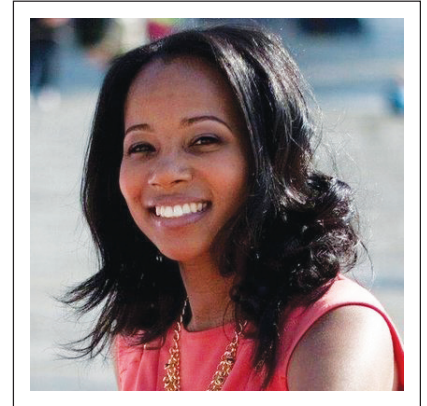
# LETTER FROM

## THE OMBUDSMAN FOR PUBLIC EDUCATION

October 26, 2016

To: District of Columbia State Board of Education

We are delighted to have completed our third school year in the re-established Office of the Ombudsman for Public Education. This year was marked by growth: a strong caseload, varied outreach efforts, sustained involvement in education policy discussions, and evolving partnerships with government agencies and community groups. We are grateful to Chairman David Grosso and the Committee on Education for their continued support of our office, and due to the Committee's support, we have been able to gradually increase staff in the office to meet the ongoing demand for our services.



During the 2015–16 school year, we received more calls for assistance than ever before.

We responded to the increased demand by prioritizing cases which met the needs of our most valuable families. We also recently started working with the Harvard Negotiation and Mediation Clinical Program to engage in program evaluation, and to develop a formal alternative dispute resolution system for our Ombudsman office during the fall of 2016. During the past school year, our office also started providing quarterly reports to the State Board on policy trends, data on top complaint areas, breakdown of complaints by ward, percent of cases by grade band, etc. This information is important because it allows the Board, as a representative body of the residents of all eight wards, an opportunity to engage in thought leadership in areas that are typically outside the specific areas of jurisdiction such as special education, school discipline, and bullying.

We have also focused on the organizational structure of the Ombudsman's office. Accordingly, we proposed statutory amendments regarding the ability to publish reports, seek independent legal advice, hire and fire our employees, and independent budget authority in order to better align with best practice for Classical Ombudsman offices. An independent and autonomous office is a core principle of an effective and credible Ombudsman office. It is also critical to the premise of "good government" and integral to the fabric of our democratic society.

I am pleased to present the data and recommendations on the following pages. As we embark on the 2016–2017 school year, I look forward to working in partnership with the District of Columbia State Board of Education, the District of Columbia Public Schools system (DCPS), the District of Columbia Public Charter School Board, and charter LEAs to improve educational outcomes for D.C. students.

Warmly,

A handwritten signature in black ink that reads "Joyanna Smith". The signature is written in a cursive, flowing style.

Joyanna Smith

# SECTION I

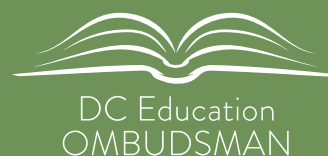
## THE OFFICE OF THE OMBUDSMAN FOR PUBLIC EDUCATION

### STAFF

Joyanna Smith, Ombudsman for Public Education  
Elizabeth Tossell, Assistant Ombudsman for Public Education (through May 2016)  
Khadijah Williams, Program Associate (as of November 2015)  
Clarence Parks, Assistant Ombudsman (started September 2016)

### Fellows and Interns

Zunara Naeem, Alyssa Innis, Beryl Trauth-Jurman, Melissa Gregory,  
Allison Beer, Tyler Alabanza, Collin Murdock, and Chelsea Miller



### What is an Ombudsman?

The word “ombudsman” is derived from a Swedish word meaning an “entrusted person” or “grievance representative.” The word has come to denote a trusted agent who looks after the interests of a particular group. In the United States, numerous public ombudsman offices have been created — through legislative, executive, or judicial authorization — as independent agencies that monitor the delivery of services for certain populations. However, less than a handful of jurisdictions have independent Ombudsman’s offices for public education.

The Office of the Ombudsman for Public Education is an independent, neutral office that helps parents and students resolve school complaints individually and collectively, transforming problems into solutions that compel systemic progress for all public education in D.C. As established by law, the Ombudsman’s mission is to be a “single office” that coordinates “transparency and accountability” by helping D.C. families navigate the five education agencies that govern and operate the public schools in D.C.\* The D.C. Public Education Reform Amendment Act (PERAA)<sup>1</sup> law laid out responsibilities for the Office of the Ombudsman that includes reaching out to parents and residents; serving as a vehicle for communication; receiving complaints and concerns, determining their validity and developing a response; identifying systemic concerns using a database;

making recommendations based on observed patterns; and issuing annual reports.

### Our Mission

To provide equal access to education for all students within District of Columbia public and charter schools, and to support student engagement and achievement.

### Our Vision

We envision an educational system where all parents, families, educators and students are fully engaged in the public school systems and are empowered to make informed decisions that improve student achievement.

### Race and Equity

Sixty-four percent of students in DCPS are African-American, 18% are Hispanic / Latino, and 4% are of an “other” ethnicity for the SY2015–16, which means that approximately 86% of the total student population are students of color.<sup>2</sup> In comparison, 76.1% of students in charter schools are African-American, 15.4% are Hispanic / Latino, and less than 1% are Asian.<sup>3</sup> Given the demographics associated with Wards 5, 7, and 8 and that 59% of our cases are from those three wards, our data shows us that we are helping some of the most vulnerable populations in the District.

\*DCPS, PCSB, DME, OSSE and SBOE.

As the D.C. Education Ombudsman, I have reached the mid-point of my five-year term appointment. It is a great opportunity to reflect about our work and its impact on the communities we serve. One of the recurring themes in many conversations that my staff and I have had with families and students is the feeling of invisibility and powerlessness. Parents have expressed that their voice is not being heard and feel as if they are ignored because of their race, gender, socioeconomic status, or zip code. This is a challenging space for me to navigate as an Ombudsman, because I aspire to be neutral, however, I am fully aware of the unique perspective I bring to the Ombuds work as a person of color, a woman, and a mother of a black son. This perspective empowers our office to serve as change agents in the lives of the families that come to our office for assistance.

Within the State Board, we must have real conversations about race and equity. The State Board has a unique opportunity to demonstrate leadership around the discussion of race and inequity in public school education. It is a difficult conversation and it requires us to carefully consider our own implicit biases about students of color, students with disabilities and other vulnerable populations and how they affect how we discuss education policy in D.C. We can start by engaging in our own race and equity training between the Board members and staff members who are part of the agency. This would allow us to create some common understanding so that we can collectively engage in dialogue about how to tackle some of the issues facing our most vulnerable populations in the District. As D.C. residents, we need to tackle the issues that black and brown populations are facing and not wonder whether children are failing because “the school work is too hard, they just don’t get it, they are not well-behaved and therefore require more discipline and structure, their parents don’t care, they are uncouth, loud, and confrontational?”\* The black and brown struggle is real. The struggle for a student with a disability is real. The plight of a homeless student is real.

Our students and families often approach our office with a profound sense of frustration because they experience different barriers such as homelessness, poverty, single parent families, food scarcity, and violence and they are looking for a place that can help them. In response to these structural inequities, we have adopted an “activist”<sup>4</sup> Classical Ombudsman model. By “activist,” we believe it is our responsibility to adopt a proactive posture to the

systemic inequities that plague our most vulnerable families. We address issues that are brought to our attention by providing direct intervention; we also act on our own initiative by engaging in efforts to address these same issues on the systemic level. Our office thus serves as a mechanism for parents, students, and families to have a real voice in addressing systemic inequities that are causing our children, particularly children of color, to fail. Indeed, progressive school districts have noted that educational equity will ensure that all gaps between the lowest and highest performing students are removed, which will eliminate the achievement disparities of black and brown students; address the overrepresentation of black and brown students in special education; decrease the use of punitive discipline practices with black and brown students; and other areas of inequity. Education equity extends beyond formal equality and fosters a barrier free system where students have the opportunity to benefit fully from their public school systems.<sup>5,6</sup>

It is our shared responsibility to actively respond to injustice and to treat the struggle of others from a place of empathy. The work of the Ombudsman’s office should strike a chord within all of us because every child and every person deserves to have a voice and for their humanity to be recognized and valued. Accordingly, at the Ombudsman’s office, we are always looking at fairness and justice when thinking about how to help students and families resolve their issues with the public school systems. As D.C. residents, all of us have a critical role in closing the equity gap that exists for students of color, students with disabilities, and other vulnerable populations. ■



\*Derived from an amalgamation of conversations from school officials and government agencies.

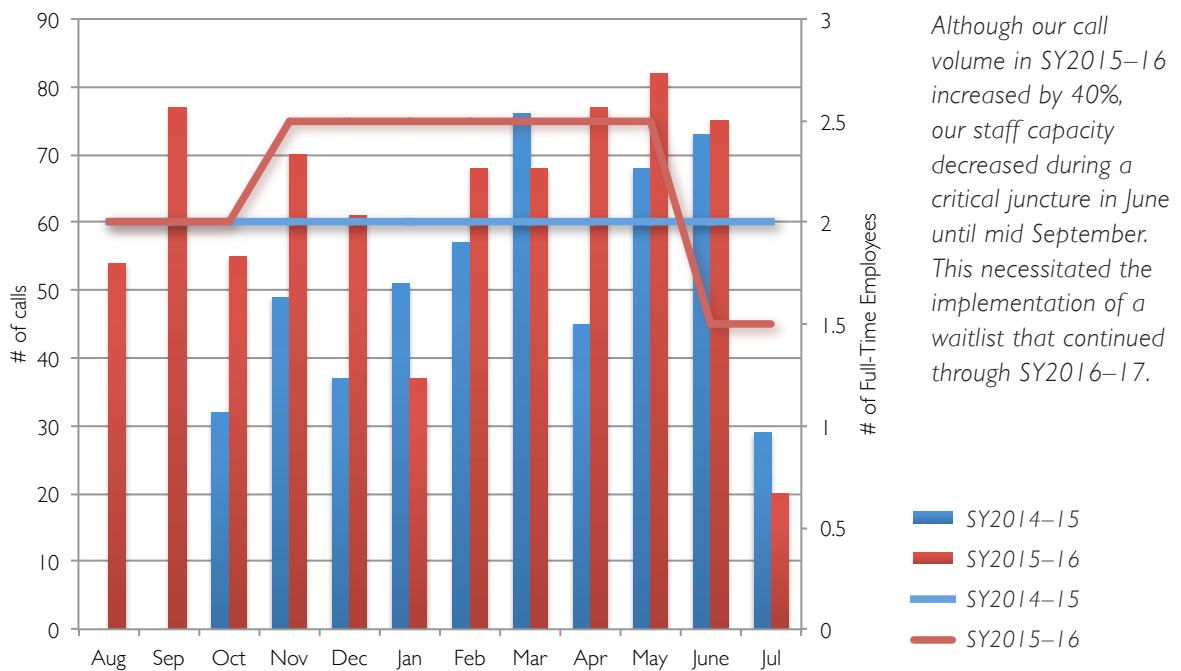
# SECTION II.

## 2016 OMBUDSMAN'S OFFICE DATA

### Who We Serve

In SY2015–16, we received 744 calls and accepted 478 complaints. This increase represents a more than 40% increase in calls in SY2015–16 as compared with SY2014–15. Further, we lost our Assistant Ombudsman during mid-May 2016 and, as the below graph demonstrates, also received some of our highest volume in calls for assistance during the months of May and June 2016. We were only able to handle the call volume by working longer hours, prioritizing cases that came in based on the urgency of the needs, and by instituting a waiting list.

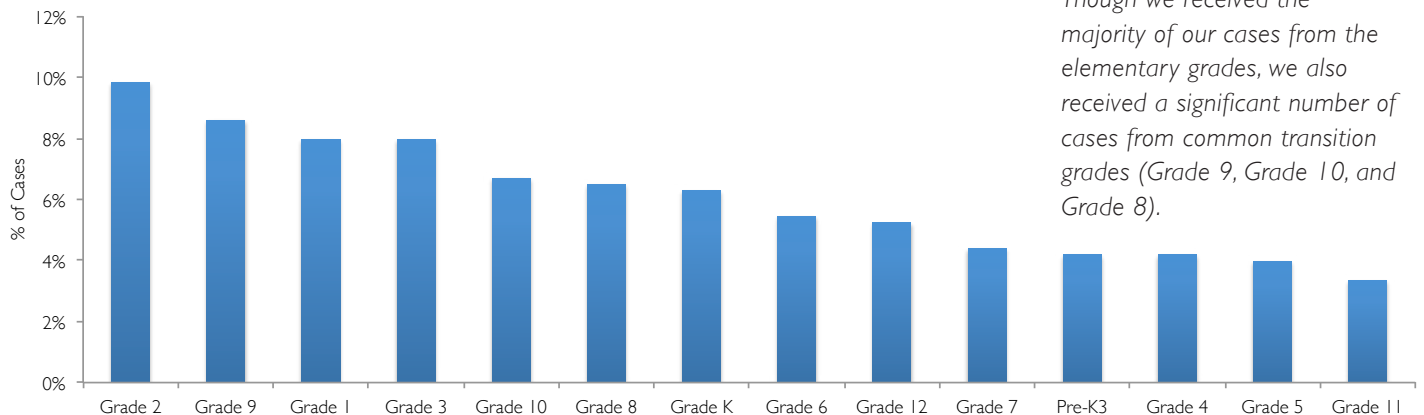
Number of Calls by Month:



Although our call volume in SY2015–16 increased by 40%, our staff capacity decreased during a critical juncture in June until mid September. This necessitated the implementation of a waitlist that continued through SY2016–17.

Cases by Grade Level:

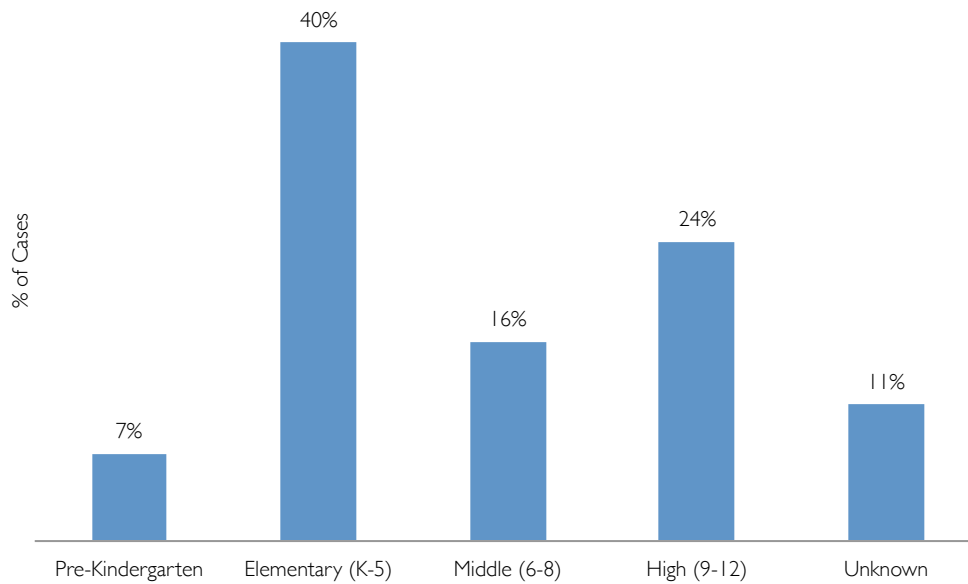
The majority of complaints received concerned elementary school students attending DCPS schools followed by high school students. The single grade level with the most complaints was Grade 2, followed by Grade 9, Grade 1, and Grade 3. The majority of complaints were special education, school environment, student safety, enrollment, bullying, and school discipline.



Though we received the majority of our cases from the elementary grades, we also received a significant number of cases from common transition grades (Grade 9, Grade 10, and Grade 8).

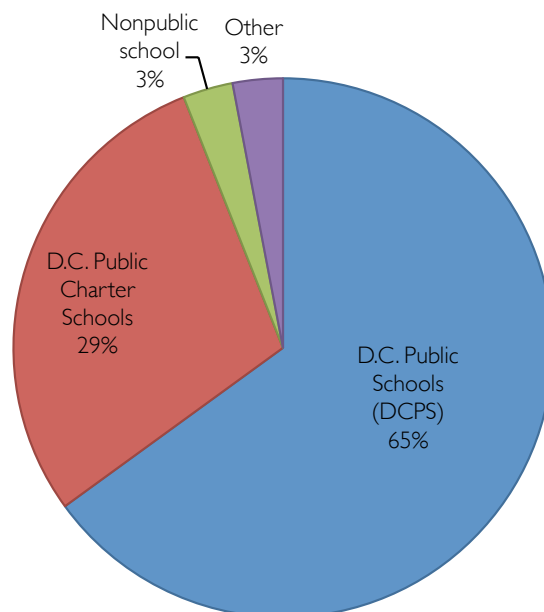
### Complaints by Grade:

The majority of complaints received involved DCPS schools. There was a slight increase in overall percentages from 63% in SY2014–15 to 65%. We observed a slight decline in the overall number of public charter schools cases, which decreased from 32% to 29%. We saw a slight increase in cases involving nonpublic schools, which represented 3% of our overall cases. In contrast, for SY2014–15, only 1% of our cases involved nonpublic schools.



*The majority of the complaints we received involved the elementary grades, followed by high school.*

### Cases by School Type:

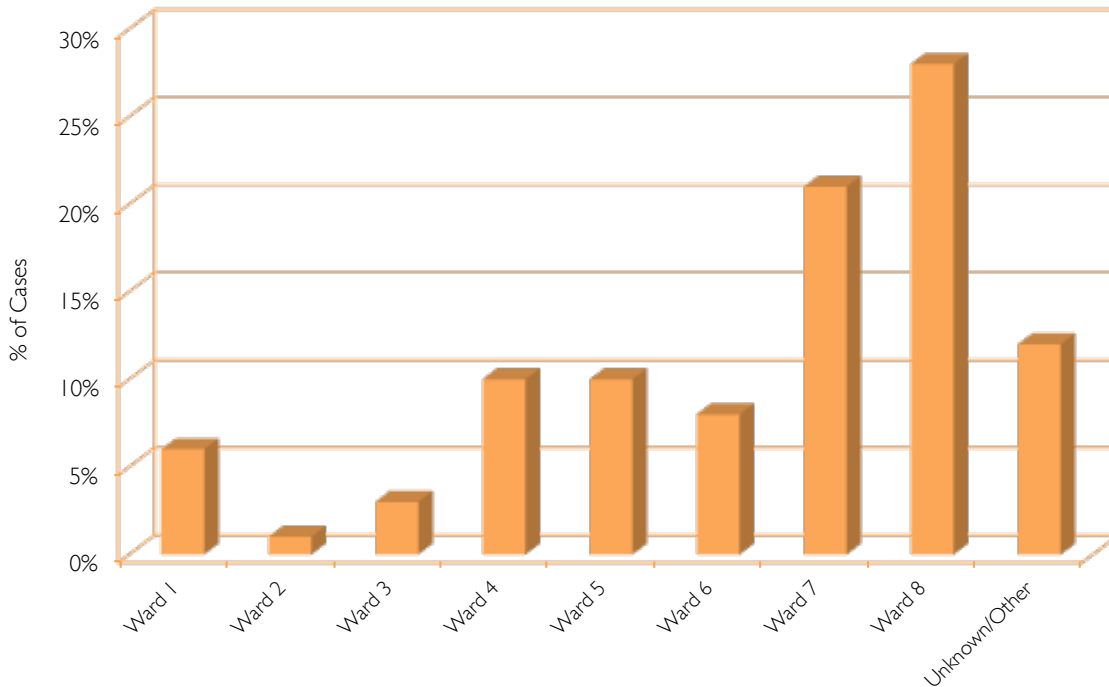


*D.C. Public Schools continue to represent 2/3 of our complaints.*



### Cases by Ward:

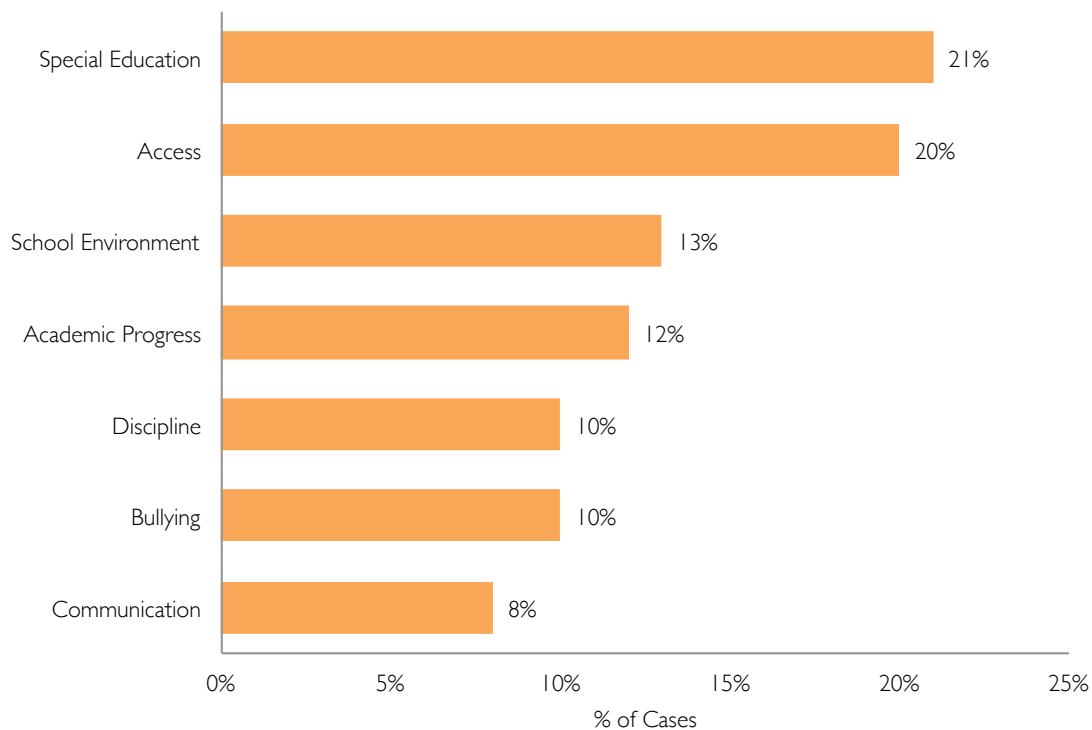
We received complaints from all eight wards. Similar to data presented in SY2014-15, Wards 5, 7, and 8 were the most highly represented.



*We continue to receive the majority of our complaints from Wards 7 and 8.*

### Top Complaint Types:

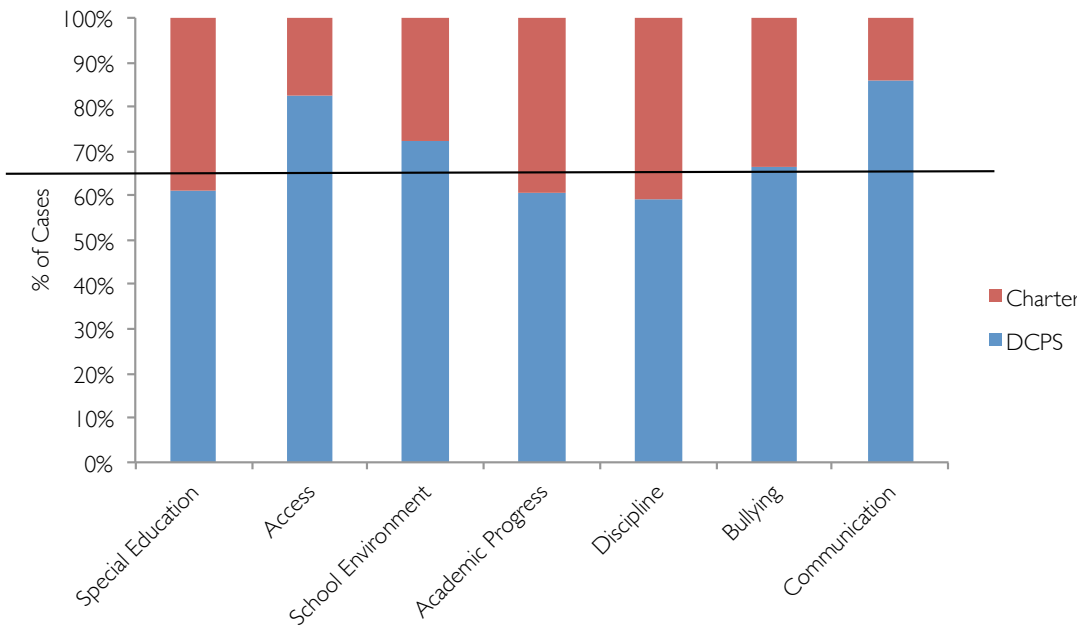
The majority of complaints were about special education, school access, school environment, academic progress, and discipline.\*



*Special Education continues to be our top complaint category, followed by Access and Academic Progress.*

\*This school year, we collapsed categories for improved clarity. School Environment includes school climate and corporal punishment; Access includes homelessness, enrollment, and transfer issues.

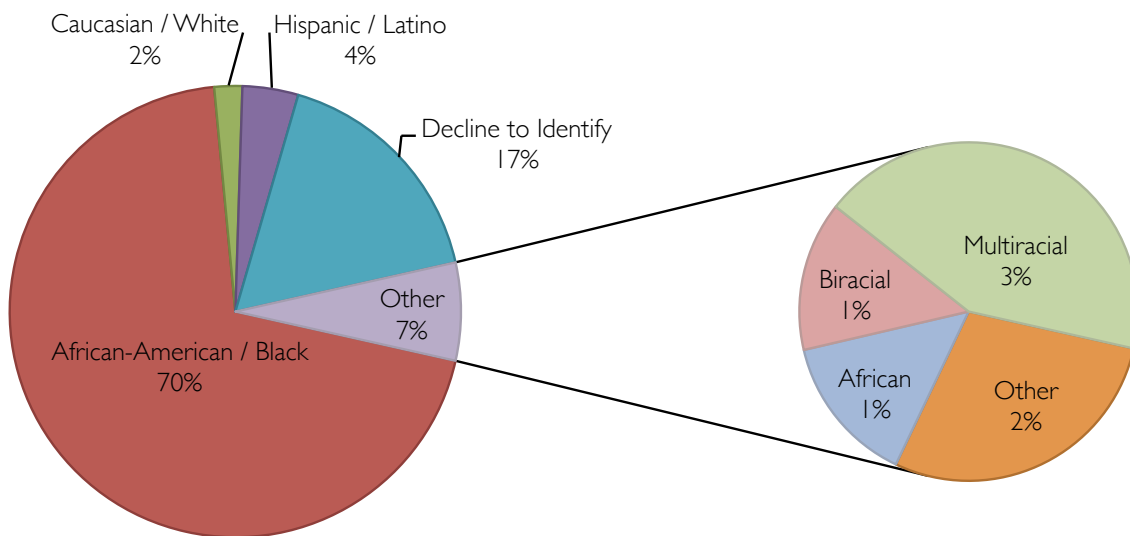
Complaints by School Type:



*This data indicates that charter schools are overrepresented in cases involving Academic Progress, Discipline, and Special Education, while DCPS cases are overrepresented in Access, School Environment, and Communication. Bullying cases are represented by both school types equally.*

Student Race:

Our casework involved a majority of African-American / Black students, 70%, which is to be expected given that 73%<sup>2</sup> of students in DCPS identify as African-American. Note: since we do not require callers to identify their race, 17% of parents chose not to provide that information.



*81% of our calls come from students of color.*

## SECTION III.

# SPOTLIGHT: Democracy Prep

### School Spotlight: Democracy Prep Public Charter School-Congress Heights\*

#### What should family engagement look like from your perspective?

We use a multi-pronged approach to engaging families. Creating a positive school culture is important to us because we took over a charter school with an existing school culture. Due to this takeover, there was tremendous distrust created by a school that told parents and families that the school was performing well when it was not. We recognized it would take time and intentional efforts on the part of the school to create a climate in which parents and guardians developed trust for the Democracy Prep team.

We knew we needed to reset the school culture and so, we implemented a number of family engagement initiatives over the last two years. We surveyed our parents and families and found there was a desire for us to provide some more insight into our math and literacy curriculum so parents could support their children at home. In response to this desire, we offer a three-part series for parents in literacy and math. At our end-of-year Transformation Dinner formal, we share the accomplishments at Democracy Prep and believe this special event is an opportunity for the entire school community, which includes parents, students, and teachers to celebrate our accomplishments. At our last dinner, we discussed our academic growth that the school has experienced; such as 14% in math proficiency last year, and 25% of our kids are college-ready. Though we expect a lot from our scholars, we understand that turning around a school takes time, and we are encouraged by this steady progress.

At Democracy Prep, we care about advocacy. Parent advocacy is important to the school network because it gives parents the tools they need to have their voices heard. To help facilitate this advocacy, we host office hours so that parents can walk in and share their concerns or issues with us. We also host Coffee and Conversation sessions. In our Coffee and Conversation sessions, we discuss many topics, including systems and behavior intervention. When we first started offering Coffee and Conversation sessions, we only had a few families participate. However, as families have started to trust us, we are starting to see more families interested in participating in these sessions. This school year, we will focus on explaining, in greater detail, our academic program to parents.

We struggled in our first two years with high suspension rates, especially with our special education students; truancy rates; and a lack of understanding by students and families of Democracy Prep policies and procedures. To address these issues, we have improved our discipline practices, incorporated additional support for our special education students, and engaged our families who have students with additional behavioral challenges. We also implemented relationship building into our communications with our families. To engage our new students and families positively, we engage students with a positive welcome call from their teachers and staff members when they start attending Democracy Prep. We also began hosting home visits, through the Flamboyant Foundation, and I have been really encouraged by the conversations that teachers and families are having through the home visits. We have also adjusted our school policies to reflect the needs of our families.

We are always trying to think of innovative ways to better engage our families. We have learned that parents are willing to support us in this effort to educate their children, and we continue to give them tools to support their children's learning at home. I am looking forward to this third school year with Democracy Prep. ■

\*Spotlight based on an interview with Executive Director, Sean Reidy. Text has been edited for brevity and clarity.

# SECTION IV.

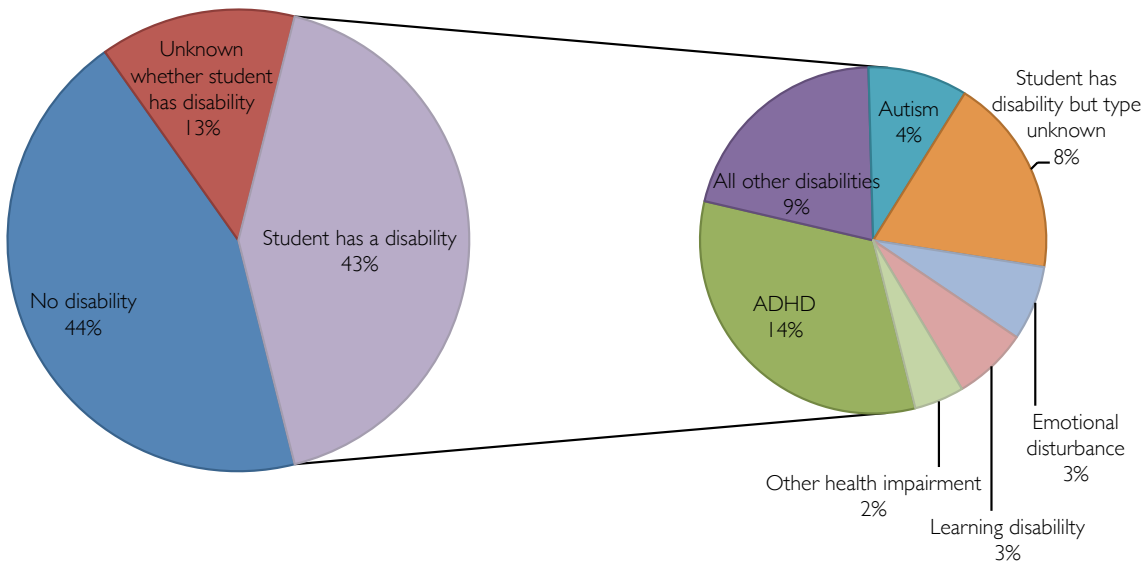
## OBSERVATIONS

### A. Special Education

In SY2015–16, 15% of DCPS students received special education and related services.<sup>7</sup> Furthermore, in SY2014–15, 35% of the cases we accepted were special education or related service cases compared to 41% in SY2015–16. This percentage includes students who have IEPs or 504 plans; students being evaluated to determine if they are eligible for IEPs; or students who need our assistance in requesting initial evaluations. Since 41% of our cases also included a special education issue and only 15% of students in D.C. have an IEP, it demonstrates that special education students are disproportionately likely to need assistance from our office. Moreover, 57% of our overall special education cases were students who resided in Wards 5, 7, and 8.

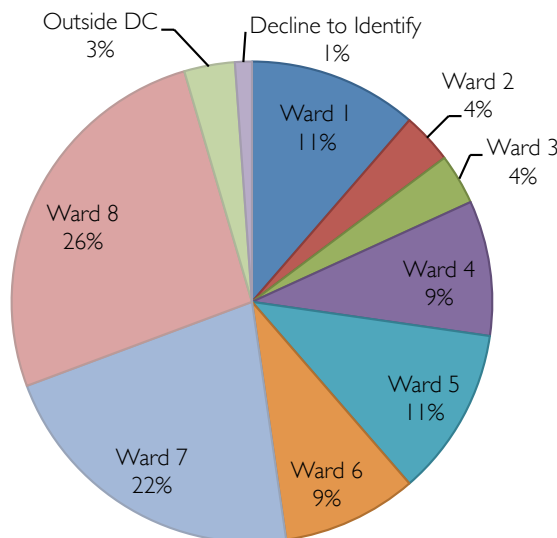
Overall, in the District, approximately 82% of the students receiving special education or related services are African-American.<sup>8</sup> Similarly, 73% of the special education cases our office accepted involved African-American students. These data indicate African-American students were significantly overrepresented in our caseload when compared to the number of African-American students receiving special education services nationally, which is approximately 15% of the total student population. In addition, although DCPS and public charter schools serve almost equal numbers of special education students,<sup>9</sup> African-American students

Disability Type:



Overall, 41% of our cases involved a student with a disability. This number is likely an underrepresentation; 14% of parents could not verify whether or not the child had a disability. There are likely students represented in the “no disability” category who may have an undiagnosed disability.

Special Education by Ward:



Although our city consists of eight wards, Wards 7 and 8, represent almost 50% of our cases. Schools in these wards enroll the highest number of at-risk students in DC.



in DCPS schools requested our services at nearly double the rate of students attending public charter schools.

In our casework, we observed parents who did not always know whether their child was eligible for special education services and were instead contacting our office because of poor academic progress or behavior issues. We were able to identify that their child might have a disability affecting their child's performance. It became apparent to us from these conversations that parents often needed help identifying the underlying cause of their students' struggles in school. Some of the factors typically used for such a determination include growth on standardized assessments from year to year; parent input, teacher recommendations, physical condition, etc.<sup>10</sup> The parents who contacted our office felt as if they could not help their children because they observed an increase in behavioral problems over the school year, but felt as though the interventions put in place did not meet the needs of their children.

### **Most Common Special Education Complaints Presented to the Office of the Ombudsman**

The most prevalent special education complaints received at the office during SY2015–16 included issues regarding: initial evaluations, delivery of related services, discipline, and transportation. We will cover, in more detail, the two most frequent special education complaints in SY15–16, which were failure to conduct timely initial evaluations and delivery of related services.

#### **Requests for Evaluation**

In comparing our SY2014–15 and SY2015–16 annual report data, we found that both DCPS and charter LEAs consistently failed to respond to parental requests for evaluations even though D.C. Code 38-2561(a)(3)<sup>11</sup> empowers parents to submit oral or written requests for initial evaluations and requires LEAs to document oral referrals within three business days. During SY2015–16, one-third of the evaluation dispute cases we accepted were failure to respond to parental requests for evaluation cases. Often, parents reported when orally requesting initial evaluations, DCPS and charter LEAs informed them that initial evaluations were not warranted because their children were either performing well academically or they did not believe the student had a disability. For example, in one of our SY2015–16 cases, at a charter LEA, a kindergarten student exhibited persistent problem behaviors in the beginning of the school year. As a result, her parents initiated an oral request for evaluation to determine whether the child had a disability. However, the school never reduced the parents' oral request into writing

and throughout the school year; the parents repeatedly asked the school to evaluate their child but the school remained evasive and noncommittal. At the end of the school year, the school informed the parents that their daughter was in danger of being retained unless she attended summer school. After paying for summer school, the parents were informed by the school that their daughter would still be retained. The parents reported that the school continued to not respond to their requests for an initial evaluation. Then, even after the parents contacted the Ombudsman's Office, and we requested the school to respond to the parents' requests to have their daughter evaluated, they informed the parents that they could only evaluate the child in the order in which the request was received. The parents were then placed on a waiting list even though the parents made the initial request at the beginning of the SY2015–16. Such actions by the school constituted the denial of a free and appropriate public education (FAPE) during SY2015–16.

In another example, at a DCPS school, a parent of a second grade student orally requested that her son be initially evaluated for a disability. She had concerns about his consistent behavioral challenges over two school years. However, a school guidance counselor informed the parent that she did not see any behaviors that warranted an evaluation for a disability. Subsequently, the student was suspended multiple times and was eventually diagnosed with Oppositional Defiant Disorder (ODD) when assessed by a teacher and evaluated by an independent evaluator. Consequently, in January of that school year, the parent requested an emergency meeting with the school and was informed that she needed to submit a written request for an initial evaluation. The parent complied but did not hear back from the school regarding the evaluation until she contacted the Ombudsman's Office, and upon the office's intervention, the school finally responded to the parent's request for an evaluation.

In the aforementioned cases, and in other cases accepted by our office, we found instances in which charter LEAs and DCPS schools did not properly follow IDEA<sup>12,13</sup> and D.C. Code<sup>14</sup> mandates regarding parental oral requests for initial evaluations. In each case, school personnel either made unofficial determinations that an initial evaluation was not warranted; did not value the parents' input; or simply did not know what the proper procedures were regarding the evaluation process. However, according to IDEA<sup>15</sup> and D.C. Code,<sup>16</sup> such determinations can only be made after the procedures relating to initial evaluations are implemented with fidelity. Even in the very rare case when an initial

evaluation is not warranted, the LEA is still required to first reduce a parent's oral request for initial evaluation into writing within three days of the request and then issue a prior written notice to the parent in accordance with notice requirements enumerated in 34 C.F.R. § 300.502.<sup>17,11,18,20</sup>

Furthermore, in D.C. case law, the Court found that the duty to conduct initial evaluations of the child arises from the Child Find provisions of the IDEA and as a result, DCPS is required to evaluate students even if the parent did not make a request for an initial evaluation.<sup>19</sup> Additionally, DCPS and charter LEAs are not relieved of their obligation to comply with Child Find provisions even if a parent agrees to the school trying alternative strategies, such as response to intervention (RTI). Thus, schools are required to comply with the Enhanced Special Education Services Act of 2014<sup>20</sup> and respond proactively, by accepting and documenting, oral requests for evaluation. In our casework, we continue to see schools violating D.C. law by failing to promptly begin the special education evaluation process upon the parent's oral request.

### Service Delivery Disputes

Service disputes involved parents who had issues with how their child's special education or related services were implemented; or whether a child's current IEP should be amended to include additional or different services. To illustrate, during SY2015-16, a father contacted the Ombudsman's Office seeking assistance with a dispute he was having with his child's school relating to the amendment of his IEP. The IEP team at the DCPS school did not honor the parent's request to amend his son's IEP to include his new Attention Deficit Hyperactivity Disorder (ADHD) diagnosis he received from his physician. To further complicate the matter, the IEP team's decisions were incongruent with the evaluations and observations in the IEP assessment. The disagreements between the school and the father continued for most of the school year by the time the parent contacted our office. When we intervened, we worked with the school to explain the parent's request to amend his son's IEP with the additional diagnosis so that appropriate special education or related services could be provided. We did so because the Special Education Coordinator intentionally ignored the documentation the parent provided and refused to evaluate the student to determine eligibility for speech and language services that might have been appropriate due to the ADHD diagnosis. In this case, Ombudsman staff continued to support the process by attending multiple meetings and causing the school to review the additional data presented by the parent. Ultimately, the school agreed to include Other

Health Impairment (OHI) as an additional diagnosis. However, serious harm had already been done because the student was forced to function without the support he needed for most of SY2015-16.

## B. School Environment, School Climate, and Student Safety

### School Environment: Climate

School environment complaints regarding the school's climate represent our third largest complaint category. A positive school climate, "is the product of a school's attention to fostering safety; promoting a supportive academic, disciplinary, and physical environment; and encouraging and maintaining respectful, trusting, and caring relationships throughout the school community no matter the setting."<sup>22</sup> A positive school climate ensures that children feel safe, secure, and valued.<sup>21</sup> Unfortunately, many of our students, particularly our most vulnerable students, must negotiate entering school daily despite their family's fears for their safety and well-being.

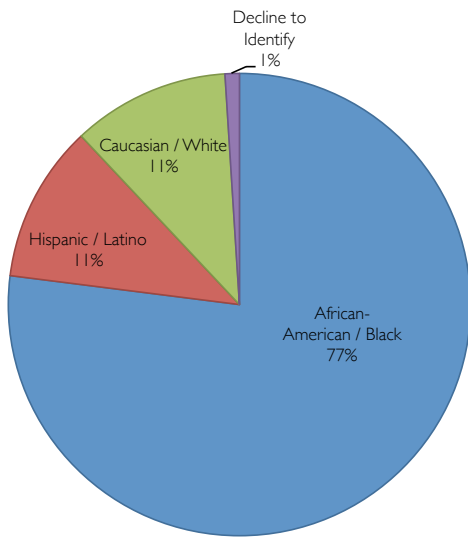
This category of cases include parent concerns that a school has failed to protect their children from bullying, perceptions that school administrators did not appropriately engage with or protect their children, and general concerns about school safety and school climate. When parents express concerns about school environment and their concerns are ignored by schools, some of our most vulnerable families have a gnawing feeling of injustice. This is particularly acute among residents of Wards 7 and 8. There is a history of violence that some of our families have experienced within their homes, their neighborhoods, and on their way to school that affects their sense of security and safety. Moreover, Wards 7 and 8 contain the largest number of black and brown students,<sup>25,29,30,31</sup> the majority of at-risk students,<sup>28,39</sup> and the overwhelming majority of school environment cases that our office has received. Accordingly, parents' concerns about their children's safety is integrally tied to their overall insecurity with feeling safe anywhere.

Concerns about the relative safety of their child's school environment are not misplaced. Further problems with school climate are not unique to the District. According to the 2015 report "Indicators of School Crime and Safety" by the National Center for Education Statistics (NCES)<sup>27</sup>, 65% of public schools reported that "one or more incidences of violence had taken place."<sup>17</sup> The report also indicated that public school students dealt with relatively high incidents of bullying, gang presence, hate speech, graffiti, and illegal drug use on school grounds.

Though the school climate issues addressed in the NCEs report share commonalities with what families communicated to our office, our observations diverge from NCEs' observations in a significant way. NCEs reports a relatively low number of safety and school environment issues in the primary grades. In contrast, 56% of the school climate cases we received in SY2015–16 involved elementary and pre-kindergarten students. Cases involving high school students comprised 25% of school environment cases while middle school students only represented 14% of cases. Thus, the majority of school climate issues occurred in Grade 1, followed by Kindergarten, Grade 2, and Pre-kindergarten 3. This difference is important to note since the fastest areas of enrollment growth in the District takes place in the early grades.<sup>28</sup> Additionally, the early grades are the foundation upon which learning, development, and achievement are built.<sup>32</sup> Thus, addressing the issues facing this young population is one we consider of critical importance.

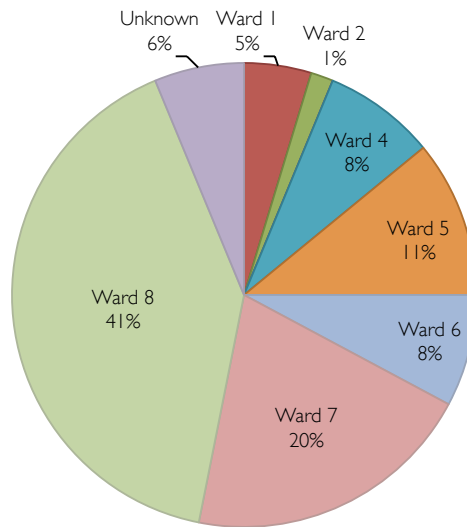
Moreover, the school climate cases we received in SY2015–16 also reveal that a majority of those students live east of the river: 72% of our elementary school environment cases involved students in Wards 7 and 8, and of this age group, 88% were black and brown students. Only 11% of our school environment cases for elementary aged students, by contrast, were white and did not live in Wards 5, 7 or 8. This data reveals that more than a river separates black and brown children from the experience of their white peers – many black and brown students are living in perpetual crisis, and as the data shows, the manifestation of this crisis is seen in lower attendance rates, stagnated academic progress, and chronic mental health problems.<sup>33,34,35</sup>

School Environment by Race:\*



*The majority of complaints we've addressed regarding school climate affected students of color.*

School Environment by Ward for Elementary School aged students:\*



*Although there are 8 total wards, over half of school climate problems we've addressed occurred in Wards 7 and 8.*

National research on school climate makes it impossible to ignore the disproportionately negative impact on a young and vulnerable student population. According to 2007 data from the National Association of Elementary School Principals,<sup>34</sup> “negative school climate adversely impacts students on physical, social, and academic dimensions.” Even the perception of a negative school climate impacts a student’s reaction to their school environment. The research suggests that the feeling of being unsafe, unvalued, and unheard can create and exacerbate emotional and behavioral problems and negatively impact academic motivation and achievement. Positive perceptions of school climate, on the other hand, can counteract the “negative impact of factors that elevate the probability of behavioral and emotional problems.” A 2013 review of school climate research confirms the adverse impact of negative school climate.<sup>35</sup> Accordingly, understanding why Ward 7 and 8 black and brown students do not report experiencing a positive school climate is not only an issue of safety and well-being, but also an issue of educational equity and attainment.

\* We have included pre-k3 and pre-k4 students.

DCPS wide data demonstrates a correlation between the ward in which students attend school and the positive or negative perceptions students have of their school climate. While DCPS' 2016 Stakeholder Survey<sup>36</sup> of students show an improvement in several school climate indicators, other responses within the same report indicate an incongruity between students' perceptions of their schools, in general, and their perceptions of their day-to-day experiences. Over 80% of students, who responded to the survey, in Wards 3, 5, 7, and 8 felt satisfied with their schools. However, students in Wards 5, 7, and 8 reported feeling the least safe, at 79%, 78%, and 75% respectively. Ninety percent of Ward 3 students, in contrast, reported feeling safe. Further, 94% of white students, overall, feel safe at their school compared with only 80% of all black students. While the survey reveals that many DCPS students perceive their school as a positive school climate, it also demonstrates that the highest proportion of students who attend a school with a positive school climate live and attend school in some of the most affluent and whitest areas in the District.<sup>56</sup>

These data are particularly troubling given that the majority of students attending schools in Wards 5, 7, and 8 are not represented in the data compared with Ward 3's response rate. Though Wards 5, 7, and 8 represent 46% of the total student population in the District, the three wards only had a combined total percentage response rate of 21%. In contrast, while students attending Ward 3 schools represent only 8% of the total District student population, 60% of the students participated in the survey. The response rates in individual schools illustrate this response gap. In DCPS' 2015 Stakeholder Survey,<sup>37</sup> which provides response rates by school, Anacostia High School, for example, had a participation rate of only 28%. Further, Dunbar High School, located in Ward 5, had a participation rate of 0%. These data suggest that the students who were most responsive and had the most positive responses to their school climate likely lived in more affluent wards and/or enjoyed more positive school environments. The lowest response rates to the stakeholder survey often lived in Wards 7 and 8 and attended school in the two wards, which are less affluent areas of the city.<sup>39,56</sup> The data suggests that some students did not feel positively about the environment in which they spent most of their time. Moreover, the recently released 2016 Stakeholder Survey does not break out response rates by ward as it did last year, and so it leaves out critical information regarding how perceptions of safety differ based on the students' subgroup. Given that most at-risk students live and attend school in Wards 7 and 8,<sup>28,39</sup> we believe that

the stakeholder survey should more accurately reflect their experiences with school environment and address their concerns with safety in their respective schools.

Through our casework, parents also expressed unease regarding whether their children are safe at school. Parents have communicated to us that their children "get beat up in the street, get beat up in the school, get beat up outside the school"\* which speaks to an experience of trauma that extends beyond the school environment. Schools have communicated that they are struggling with how to respond to these larger issues. School officials often rely on school policies that are limited in scope or only address the situation from a punitive perspective. This approach does not address the pervasive sense of violence that parents and students feel nor the levels of trauma students are feeling as a result of experiencing high levels of violence inside and outside of the school. This means that while parents are communicating that their children are being bullied or using other similar terms, parents are often actually communicating that their families do not feel safe anywhere. Thus, school response has often only superficially addressed the underlying concerns and has not addressed the fear that parents and students feel about their surrounding environments.

Addressing school climate also helps in addressing mental health issues.<sup>33</sup> The 2012 Office of the State Superintendent of Education (OSSE) Youth Risk Behavior Survey<sup>40</sup> reveals a correlation between depressed mood and suicide attempts among high school students, which is also impacted by a negative school climate. Thus, D.C. has engaged in some promising initiatives around trauma informed practices and since SY2014–15, OSSE has been working with DCPS and charter schools to consider and implement practices to build safe and effective learning environments through positive relationships, connection, and accountability.<sup>59</sup> In addition, in 2015, Councilmember Grosso introduced the Youth Suicide Prevention and School Climate Survey Act of 2015<sup>41</sup> which requires all District teachers and principals in all DCPS and charter schools to undergo training on suicide prevention, intervention, and post-intervention every two years. It also requires OSSE to develop and publish written guidance to assist LEAs in developing policies and procedures for handling various aspects of student mental and behavioral health. In addition, the law requires OSSE to establish and implement a pilot program to collect aggregate climate data through the school climate survey.

\*Derived from an amalgamation of conversations with parents who have sought assistance from our office.



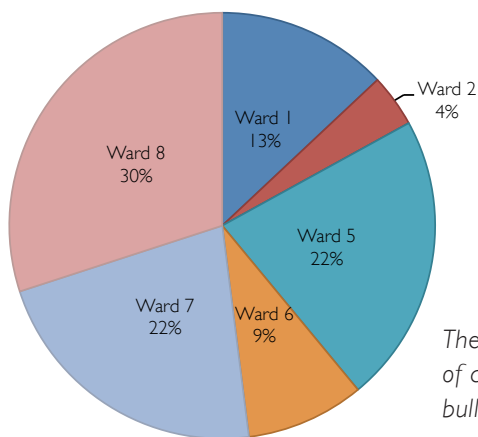
The trauma-informed approaches to addressing the needs of our families and students in D.C. are promising and begin to address the need for safety and security that our families have shared with us over the years. Accordingly, schools can begin addressing this work through implementation of school-wide curricula to improve school climate, incorporating trauma-informed and restorative practices when interacting with students, and positively engaging with parents throughout the year.

**School Environment: Bullying**

Research has also demonstrated that negative school climate increases the likelihood of peer-to-peer violence, such as bullying.<sup>33</sup> Bullying is defined by the D.C. Office of Human Right’s (OHR) Bullying Prevention Program as “unwanted, aggressive behavior that causes significant harm to the target and involves a real or perceived power imbalance...”<sup>42</sup> Nationally, 28% of students in Grades 6-12 and 20% of students in Grades 9-12 have been bullied. Only 20-30% of these students notify adults of the bullying incidents.<sup>43</sup> The 2012 OSSE study provides that 13% of middle school students and 9% of high school students miss school as a result of bullying, and 30% of students were bullied on school property during the past 12 months.<sup>40</sup> The OSSE study also revealed that students who are bullied are more likely to live in food insecure households. Thus, it is critical that adults are responsive when bullying is reported to them. This will help to right the balance of power in favor of the victim while providing the bullying student with the support needed to engage in more positive interactions with their peers.

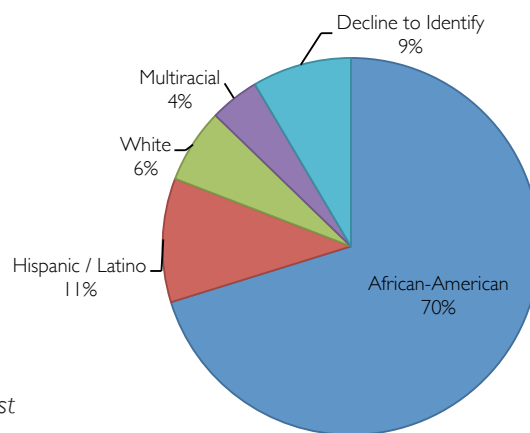
Given the possible adverse impacts associated with students in a negative school environment, it is imperative that school personnel develop a conscious awareness of possible bullying incidents around them and be responsive when bullying is reported. Such acute awareness should occur whether or not the behavior meets the legal definition of bullying. Echoing our observations from SY2014–15, forty-eight parents and guardians in SY2015–16 reported bullying to our office, which represented an increase from last year’s thirty-seven cases. This data suggests that school response to bullying has been slow or lacking urgency until the incidents escalate into a major incident. OHR is tasked with ensuring that the District’s schools comply with the citywide bullying prevention law. In our work with schools we have observed that many LEAs might not have a full understanding of how to identify bullying and how to prevent it. The challenges with the school response are consistent with reports by parents that if schools did respond to their complaints, it was often inadequate. Many parents complained that when filing a complaint with the school on behalf of their students, schools failed to even provide the parents with an incident report. Moreover, parents perceived the schools’ failure to intervene in a number of bullying complaints as inaction by the school. However, school staff from charter LEAs and DCPS schools have expressed frustration in addressing bullying. Many incidents do not rise to the legal definition of bullying. Additionally, school staff have communicated that their interventions either fail to work or are temporary in effectiveness. Again, the disagreement as to whether incidents rise to the legal definition of bullying fails to address the underlying issue, which is that many families regularly experience trauma and feel a relative lack of safety and security in their children’s school environment. As our pie chart shows below, many Ward 7 and 8 residents, who are typically black and brown families, often observe incidents at home, on the way to school and from school, involving their children that make them fearful of their safety. Parents infer from these responses that the school will do nothing to protect their children.

Bullying by Ward



*The majority of students of color affected by bullying reside in the most economically distressed wards in the District.*

Bullying by Race

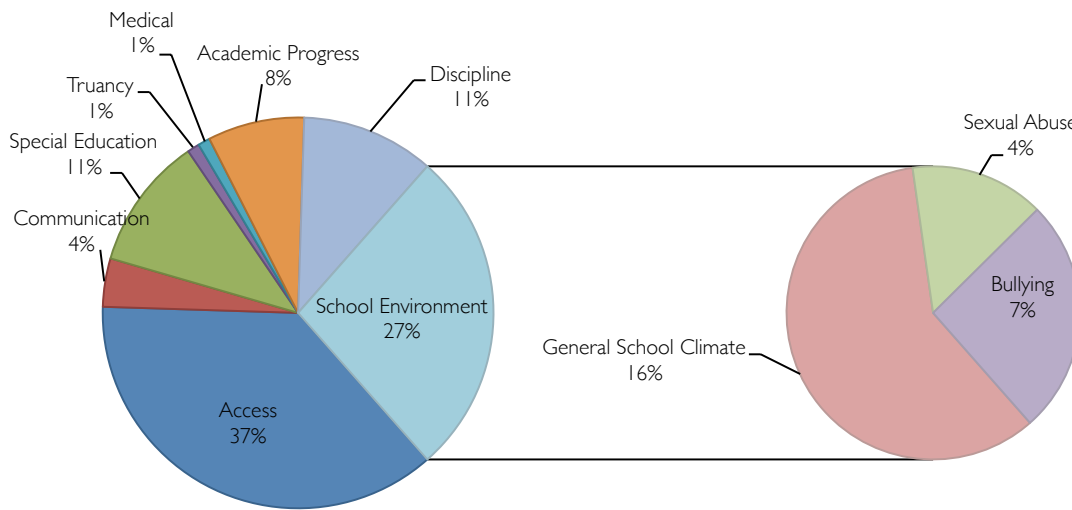


*Almost all students affected by bullying are students of color.*

The repercussions of these perceptions of inadequate response to bullying can be observed in the cases our office has received. In 21% of our bullying cases, the student was out of school, at least in part, due to the perception that the child was not safe at the school.

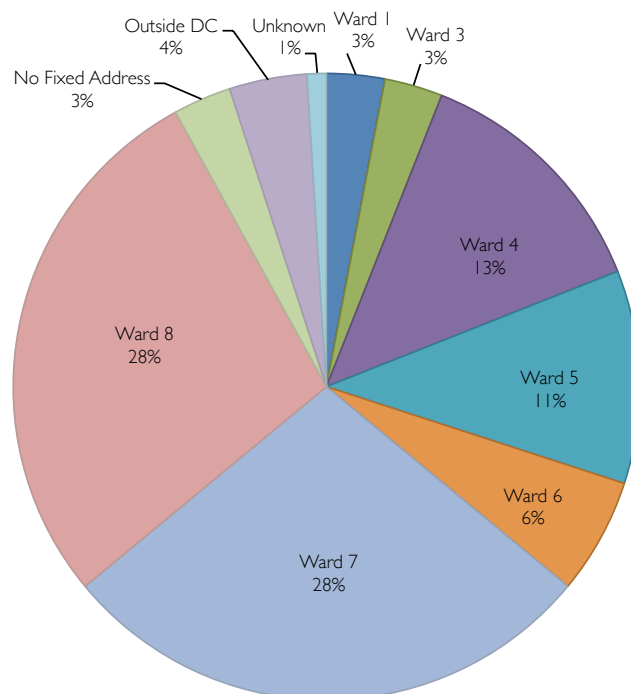
Finally, schools positively cite the work of OHR in helping them address their bullying issues, but it is unclear how many schools use this resource. OHR has created a Bullying Prevention and Intervention Toolkit for Educational Institutions<sup>44</sup> to improve school climate and to address bullying in a way that meets the needs of the student being bullied and the student exhibiting bullying behavior. Our office recommends that schools continue to use this resource, collect internal data on bullying, and evaluate the efficacy of their practices.

Out of School by Category:



Students were most likely to be out of school in issues regarding Access (which includes enrollment, homeless issues, and transfers).

Access by Ward:

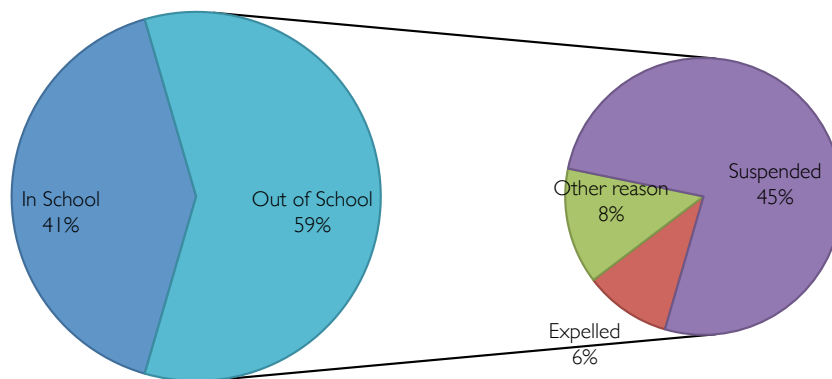


The majority of Access complaints our office addressed affected students in Wards 7 and 8.

## Access: Enrollment

Access to learning without barriers should be considered a basic human right. Our office has witnessed many examples of schools going above and beyond to ensure that children receive this right. We have also observed many examples of children being lost in the system due to administrative oversights, systemic gaps, and lack of understanding of the basic laws that protect certain vulnerable children. Of our 94 access cases, 80% of these cases dealt with enrollment problems. The enrollment cases are varied, but share common threads pointing to gaps in the current system.

Students Out of School: At Time of Intake:



*The student was out of school at time of intake in 59% of cases. 51% of these cases involved discipline.*

Consider Khalil,\* an African-American twelfth grader attending an out-of-boundary DCPS school. Caught with clothes that smelled like an illegal substance on school grounds, Khalil was issued a 90-day long-term suspension and sent to C.H.O.I.C.E. Academy Middle and Senior High School (CHOICE Academy), DCPS' alternative placement for long-term suspensions. Khalil did not enroll at CHOICE Academy because he didn't feel as if he would learn there. So, he spent his suspension term, 90 days, wandering around D.C. until the conclusion of the long-term suspension. There were no truancy triggers because DCPS requires parents to affirmatively enroll their children at CHOICE Academy and DCPS administratively withdraws students from their original school. Once Khalil was withdrawn from his out-of-boundary school, and did not enroll at CHOICE, he was no longer being tracked by DCPS. Khalil is an example of a child our office has witnessed far too often, children who are trying to navigate the public school system on their own, and to whom the District has failed. These are our lost children.

This case became further complicated when Khalil tried to return back to his original school, at the conclusion of the 90-day suspension, and he was turned away from the school by the School Principal and Assistant Principals. Though Khalil had the right to attend as an out-of-boundary student through the end of the year,<sup>45</sup> school officials told him to return back to his in-boundary school. The school advised that Khalil return to his neighborhood school even though he had not attended his neighborhood school all year. Khalil was less than a year shy of graduating with a high school diploma. It is appalling for our office to witness school principals and staff creating additional barriers for students to return back to school especially given the low graduation rates for African-American males which are approximately 56.3% and 56.4% for Latino males, respectively.<sup>60</sup> While we were able to intervene and provide him with an opportunity to return back to his out-of-boundary school, Khalil decided to transfer to a twilight program so that he could finish his credits as soon as possible without falling behind. However, Khalil should not have had to endure so many barriers to re-entering school. Studies have shown that students who miss more days of school are less likely to graduate than their peers who do attend school. While Khalil persisted and re-entered school, it is unconscionable for a school system to create barriers for a student's return to school. Thus, we recommend that DCPS automatically enroll students in CHOICE Academy in order to avoid the administrative gap that exists for students who are withdrawn from both school systems and are still of compulsory school age.

\*Names and other identifying information of students discussed have been changed to maintain confidentiality.

Charter school parents have also shared a number of problems regarding enrollment. For example, one parent of a charter school student expressed that she was encouraged to enroll her child at another charter school that could better meet his needs. The student, a third grader, had significant special education needs and so, the parent withdrew the student upon the recommendation of the charter school. When she tried to enroll her student at his in-boundary school, DCPS initially refused to enroll him because of the significant special education needs outlined in his IEP. Although DCPS has schools within the LEA that could serve the significant special education needs outlined in her son's IEP, she was not given specific information by the school as to where to go for additional assistance in terms of placement. The mother felt caught between both sectors because initially she could not find a placement within DCPS. At the same time, the charter school, where her son was enrolled previously, wouldn't allow her to re-enroll her son because the enrollment period passed. We worked with the school to request a clarification of their withdrawal policies, and coached the mom on how to discuss a potential denial of FAPE with her attorney while also understanding her other school options. Finally, we provided some research support to the public charter school regarding the funding mechanism for special education students who enroll after the enrollment audit occurs in the school year. We recommend that families receive explicit instructions as to where to go if a school cannot meet the needs of their students as well as a copy of their rights. The DCPS Office of Specialized Instruction provides support, but some of the available resources are not appropriately shared with parents at the school level.

Additionally, some families have communicated issues with enrolling their children into some DCPS and public charter schools after receiving a match through the lottery, even though schools are forbidden from refusing enrollment due to a disability.<sup>40</sup> When the parents went to the schools to enroll their children and the schools discovered that the students had 20 hours or more special education hours on an IEP, parents were told that their children could not attend the school. Although schools are given 30 days to try to implement an IEP,<sup>47,48</sup> this means a child is at risk of not receiving services for at least a month.<sup>40</sup> Charter schools have also communicated that due to funding constraints, they do not have the resources to meet the students' needs, and thus feel that it is unfair to place their teachers and the students in this position. Such a position denies children a right to FAPE. Though OSSE has provided guidance on placement and enrollment of students with special education needs, we have received complaints from parents communicating that schools have not enrolled students with 20 or more hours of service because the school did not believe they could meet the student's significant needs. This is illegal and violates a child's right to a free and appropriate education, yet it is clear that schools do not fully understand this legal requirement. Some schools engage in a practice of counseling out students with disabilities rather than providing them with services as required by state and federal law. Given the risk of violating FAPE through informal means such as restricting enrollment and counseling out, we believe it best that the Deputy Mayor for Education convene a working group in order to address the concerns regarding mid-year withdrawal, enrollment, FAPE provisions, and placement decisions.

Some enrollment difficulties are due to a gap in supports for parents or personal circumstances outside of the parent or child's control, and that may prove difficult for one school to address. In at least three cases, parents were unable to take their children to enroll or attend school due to medical issues of their own – pregnancy that left them bedridden, recovery from major surgery, and critical disease—prevented parents from being able to drop off their children to school. In these cases, a community-based approach to addressing students' needs that extend beyond traditional school supports may prove helpful.

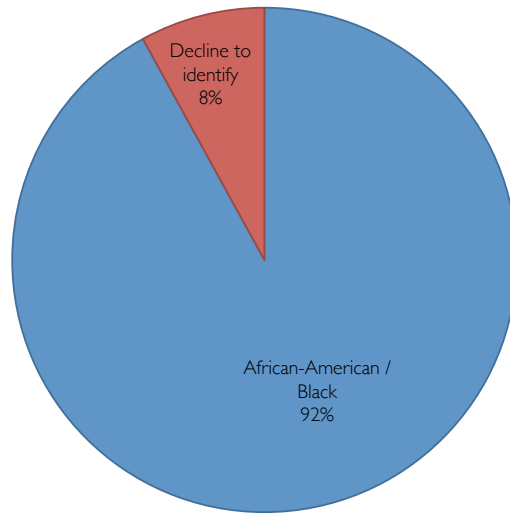
There are examples of schools which have found innovative ways to address these personal circumstances. A recent example of when schools have created a community that extends beyond providing academic instruction is found in a recent Washington Post article, which profiled Ketcham Elementary School.<sup>49</sup> At Ketcham, the school principal has driven students to and from school, teachers have paid for backpacks and shoes, and families have donated hand-me-down clothes to each other. The school also offers a monthly food pantry for children and families and a washer and dryer so that students can have clean uniforms. The Ketcham Elementary School students have posted major gains on standardized tests linked to the Common Core Academic Standards. This article demonstrates the value of focusing on the needs of the "whole child," and is a model worth replicating across the District.



## C. Discipline

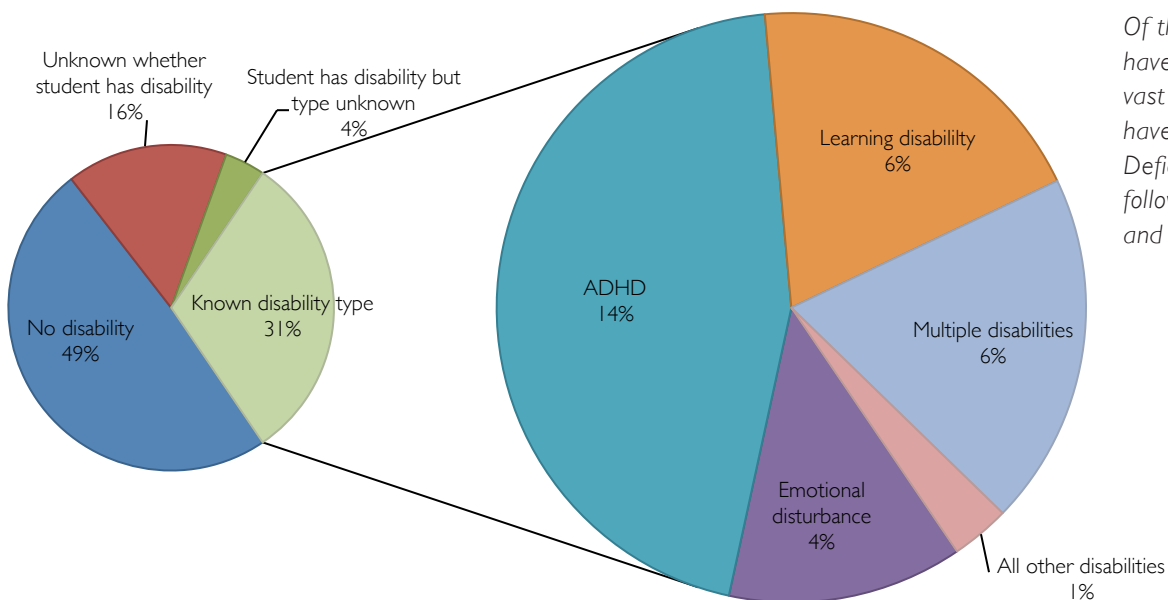
Discipline cases represented our fifth-largest complaint category. Ninety-two percent of callers with discipline complaints identified the student's race as African-American. None of the discipline complaints we received, for parents willing to identify, self-identified the student's race as white. This data accords with OSSE's data showing that African-American students in D.C. are nearly six times more likely to be disciplined than white students.<sup>50\*</sup>

Discipline cases by student race:



*Although African-American students are represented in 70% of our cases, this graph indicates that these students are overrepresented in the discipline complaints our office has received.*

Discipline Cases by Disability Status:



*Of the 31% of students who have a known disability, the vast majority of students have a diagnosis of Attention Deficit Hyperactivity Disorder, followed by Learning Disability and Emotional Disturbance.*

\*Eight percent of callers with discipline complaints did not identify the race of their students.

### **Suspension Rules Workgroup**

In September 2015, George Washington University Law School Professor Alan Morrison convened a Suspension Rules workgroup to discuss legal and equity issues that arise from school exclusion. The Office of the Ombudsman is a member of the workgroup comprised of a diverse set of organizations including Advocates for Justice and Education and the Center for Court Excellence, advocating for clear, consistent, and appropriate disciplinary responses in DCPS and D.C. charter schools. The workgroup proposed a number of revisions to Chapter 25,<sup>51</sup> the disciplinary regulations that govern suspensions and expulsions for the DCPS. As some of the provisions continue to be discussed between the DCPS Office of the General Counsel and the workgroup, we will limit our discussion in this report to two provisions that were part of our past advocacy efforts and mentioned in our annual report issued on September 16, 2015.

### **Hearing Waiver**

In our last annual report, we expressed grave concerns about the hearing waiver, as we observed in some cases that school staff did not fully inform parents of the rights they were giving up in signing the waiver.<sup>52</sup> Moreover, in some cases, parents waived their rights to a hearing and would have likely obtained a better outcome for their student through the hearing process rather than merely accepting the proposed long-term suspension. At the time of the issuance of our second annual report, during the early Fall 2015, hearing waivers were administered by school staff. Now, the hearing waiver policy only allows Youth Engagement Division (YED) staff to present the hearing waiver to parents and guardians. The purpose of the hearing waiver, from the DCPS perspective, is to avoid scheduling hearings for parents who do not show up. Thus, the hearing waiver facilitates an administrative process to this end. However, it is also a double-edged sword because the hearing waiver also results in the abrogation of the due process rights of parents and guardians.

In response to the hearing waiver, the Suspension Rules workgroup initially proposed to “eliminate the use of the waiver or [at least] revise the waiver so parents are better informed of the consequences of a waiver and their options if they wish to contest a recommended suspension.” Through the collaborative efforts of the workgroup and DCPS, the administration of hearing waivers is limited to YED staff. This new requirement allows families to have a system of checks and balances and purportedly eliminates bias between the school-based staff proposing the suspension and the Central office staff administering the hearing waiver. Further, the hearing waiver cover sheet provides some protections for parents such as language to confirm that the hearing notice is received by parent/guardian; a low cost/pro bono legal services list is provided to the parent; the alleged violation and proposed disciplinary action is explained to the parent/guardian; the parent/guardian understands their right to a hearing; and the parent/ guardian is required to acknowledge their understanding and agreement to waive their right to a hearing. This cover sheet affords an opportunity for parents and guardians to be better informed of the rights they are giving up before signing the waiver, however, as we recommended in our last annual report, DCPS would ideally abolish the hearing waiver.

### **Legal Services Providers List**

In our annual report issued for SY2014–15, we found that some DCPS schools were distributing outdated lists of legal services providers to parents. When our staff called the contacts on the list, we found that the providers no longer existed or did not provide discipline representation. We developed an updated list of local legal services providers who are willing to provide free representation in disciplinary matters. We provided that list to DCPS in February 2015. DCPS began distributing the list to schools in early September 2015, for inclusion with long-term suspension and involuntary transfer paperwork. Through the continued advocacy of the Suspension Rules workgroup, Advocates for Justice and Education, our office, and others, the pro bono/low cost legal support document will automatically be attached to all long-term proposed notices of disciplinary action through the Student Behavior Tracker starting SY2016–17. Additionally, the Suspension Rules workgroup encouraged the YED hearing scheduler to provide the legal support document via the hearing invitation to parents, attorneys, and schools.

### **OSSE Discipline Report and City-Wide Equity Report**

In our last annual report, we recommended that OSSE publish state-level regulations that provide a basic floor of due process protections. In June 2014, OSSE released its report, “Reducing Out-of-School Suspensions and Expulsions in the District of Columbia Public and Public Charter Schools.”<sup>50</sup> This report recommended working with stakeholders to finalize discipline-related regulations that establish basic standards for discipline. Since the publication of our last annual report, OSSE has issued

non-regulatory guidance to LEAs but failed to establish a minimum threshold for due process protections for students. This is an informative resource for LEAs regarding the basic protections that should be afforded to public school students in school discipline. The report spells out annual reporting requirements under laws such as the Pre-k Student Discipline Amendment Act of 2015; new reporting requirements that LEAs must annually provide discipline data to OSSE by August 15th, and that OSSE must share their information with the public by October of each year. The OSSE non-regulatory report also provides key frameworks for understanding and addressing behavior such as the trauma theory and positive behavior support systems; recommended practices for school discipline including a number of features that should be in a school discipline policy such as notice to parents, a ban on corporal punishment, a student code of conduct, and an appeal process for discipline actions. The report also recommends that LEAs solicit feedback from the school community which would include parents.<sup>50</sup> These recommendations are consistent with best practices in school discipline; however, it displaces the burden of the state education agency to require due process protections for students and places it on LEAs.

We have spent a fair amount of time in the annual report discussing equity and its impact on vulnerable populations, and so, we thought it would be helpful to briefly discuss the latest equity reports.<sup>56</sup> The equity reports offer data from SY2014–15, and the disproportionality of the impact of suspensions upon vulnerable populations, such as students with disabilities and students of color. We did a cursory review of middle schools and high schools in Wards 5, 7, 8, and 3. We found that high schools in Wards 5, 7, and 8 have greater rates of suspension than Ward 3. For example, there are four high schools in Wards 5, 7, and 8 which have suspension rates greater than 25%. In comparison, Wilson High School, located in Ward 3 has a suspension rate of 9%. DCPS middle schools in Wards 7 and 8 have the highest percentage of students suspended followed by the DCPS high schools in Wards 7 and 8. Public charter schools in Wards 7 and 8 have higher suspension rates than public charter schools in Ward 5. We also found, through an analysis of OSSE's enrollment audit data,<sup>39</sup> that students in these same wards were overrepresented in special education and at-risk status.<sup>58</sup>

It is important to note that 87% of schools with a suspension rate of 20% or higher are in Wards 5, 6, 7, and 8. Additionally, these schools also tend to be at least 95% African-American and have an at-risk student population of more than 60%. As indicated earlier in our report, 51% of disciplined students in our cases have a disability, and 11% of our special education cases involved students who were out of school, the same percentage as our discipline cases. According to the U.S. Department of Education, "recent data on short-term disciplinary removals from the current placement strongly suggest that many children with disabilities may not be receiving appropriate supports, and other strategies, in their IEPs." This means that our most vulnerable students are being disserved even as they have been identified by the school as requiring additional supports.

Thus, a cursory review of the data presented in the equity reports suggests that African-American students continue to be disproportionately disciplined when compared with white students. Given the disproportionate impact of discipline upon students of color and students with disabilities, OSSE should require a minimum threshold for due process protections that extend beyond what federal law, local law, and best practices provide. ■

## SECTION V.

# SCHOOL SPOTLIGHT: Ballou High School

### School Spotlight: The Impact of Restorative Justice on Ballou High School\*

*Overall, we find that many schools rely too much on exclusionary discipline and offer too few in-school interventions to encourage positive behavior. Recent data demonstrates that 12% of DCPS students were suspended at least once.<sup>55</sup> We know that research shows that suspended students are less likely to graduate on time and more likely to be suspended again, repeat a grade, drop out of school, and become involved in the juvenile justice system.<sup>53</sup> Some D.C. schools are implementing promising alternative strategies to encourage positive behavior and reduce suspensions. For example, Ballou High School has implemented a school-wide restorative justice program. Unlike traditional discipline, restorative justice practices empower students to focus on repairing the harm done by misbehavior and gives students an opportunity to come forward and make things right. Accordingly, we decided to highlight Ballou High School because it has used the restorative justice model to dramatically alter the school climate and significantly reduce the amount of suspensions at their school.*

The suspensions have dramatically decreased since Ballou High School implemented the restorative justice model. Years ago, the school climate was one in which students were fighting in school and arrested by the Metropolitan Police Department over and over again. Before Principal Yetunde Reeves arrived at Ballou, there were 816 students and 1,018 suspensions or expulsions at the school, which amounted to approximately 125 suspensions for every 100 students. In SY 2014–2015, Ms. Reeves' first year as the Ballou school principal, there were 827 students at Ballou and 742 suspensions, or nearly 90 suspensions per 100 students. In SY 2015–16, Ballou had 929 students, but the number of suspensions dropped to 473 suspensions or 51 suspensions per 100 students. This is the biggest decrease in the city.<sup>55</sup>

Ms. Regina Nadir, Dean of Students, added, "As a clinical therapist, [restorative justice] feels very normal. I've learned that suspensions don't necessarily always work." We are trying to shift the mindset of our young people. We are committed to ensuring that kids get the support they need and we are a team of individuals that are invested in children and families. We do the difficult work in order to make sure that our students and families are engaged. We also spend a lot of time doing home visits [through Flamboyant Foundation] to support kids with whatever needs that they have. Students feel like their voices are heard."

"[As is typical in restorative justice], we have a talking portion, center portion, and chairs are arranged in a circle. Students sit in a circle and work with the teacher and the affected party. We talk about the purpose of the circle with the students and why they are here. We begin with positive statements, or a positive word. It is important to us not to rehash the situation. We look at what everyone has brought to the situation and come up with a solution. While we have the power to suspend, restorative justice focuses on creating a space for honesty and open dialogue. If there should be a consequence, we talk about that too. Instead of imposing suspensions, consequences might instead include Youth Court, writing an essay, volunteering at the daycare facility, or working with community partners such as the Washington Informer or the Covenant House."

"Through restorative justice, we are trying to teach our students the life skills they need to be successful and we want to change the behavior that has become the norm. Many students have seen their parents engage in negative behavior and have modeled that behavior. In the past, as a school community, we have responded by going straight to a punitive action, which is not correcting the problem. We also focus on mental health of students and have partnered with D.C. Department of Behavioral Health (DBH) to do things that are designed to build the overall community. We want a restorative community."

Accordingly, Ballou and several other DCPS and D.C. public charter schools have also embraced the model with the support of OSSE's Restorative Justice Community of Practice. These restorative justice initiatives help contribute to a positive school climate, which can decrease the likelihood of suspensions, as demonstrated at Ballou High School, and even boost academic success.<sup>57</sup> ■

\*Based on interviews with Principal Yetunde Reeves and Dean of Students Regina Nadir.



# SECTION VI

## 2016 ANNUAL RECOMMENDATIONS

### Race and Equity

- ▶ The State Board of Education should undergo race and equity training between Board members and staff members that are part of the agency. Given the prominent role of the State Board on evaluating education policy, such training would allow the agency to create some common understanding in order to collectively engage in dialogue around how to tackle some of the issues facing our most vulnerable populations in Washington, D.C.

### Special Education

- ▶ Parents should be engaged as equal partners in making decisions about their children's education as provided by recently-passed legislation, the Enhanced Special Education Services Act of 2014.
  - » When parents make oral requests for evaluation, these requests should formally trigger the evaluation timeline. LEAs are required to reduce a parent's oral request for initial evaluation into writing within three days of the request and issue a prior written notice to the parent.

### School Environment: School Climate

- ▶ Schools should address the trauma often experienced by families through the implementation of school-wide curricula to improve school climate, implement trauma informed and restorative practices when interacting with students, and positively engage parents throughout the year.

### School Environment: Bullying

- ▶ Many Wards 7 and 8 parents communicate to our office about incidents that they, at times, mischaracterize as bullying incidents. However, the underlying feeling expressed by parents as bullying often reveals an insecurity with their surrounding environments that schools should not ignore. Many families regularly experience trauma in their neighborhoods, and in transit to and from school, feel a relative lack of safety and security in their children's school environment. Given that there is a serious amount of trauma often experienced by our families, trauma informed practices should continue to be implemented in order for schools to be perceived as safe and effective learning environments for students.
- ▶ Schools should utilize the technical assistance offered by the Office of Human Rights Bullying Prevention Program. OHR also provides a Bullying Prevention and Intervention Toolkit for Educational Institutions to improve school climate and to address bullying in a way that meets the needs of the student being bullied and the student exhibiting bullying behavior; and incorporates restorative practices. Schools should continue to use this resource, collect internal data regarding bullying, and evaluate the efficacy of their practices.

### Access: Enrollment

- ▶ MySchoolDC should consider convening a workgroup with education partners, such as DCPS and PCSB, tasked with developing a plan for better coordination on behalf of students who enter the lottery and have IEPs with 20 hours or greater.

## Discipline

- ▶ Discipline responses should focus on keeping students in school.
  - » As we have observed with schools such as Ballou High School, schools that implement evidence-based school-wide interventions such as restorative justice and trauma-informed strategies, can significantly reduce suspension and expulsion rates. Such practices can also serve to keep students in school without disrupting their access to learning.
  - » We recommend that DCPS automatically enroll students in CHOICE Academy in order to avoid the administrative gap that exists for students who are withdrawn from both school systems and are still of compulsory school age.
  - » We echo the sentiment provided by the U.S. Department of Education<sup>58</sup> that the suspension of students with disabilities suggests an inadequate level of support and interventions in their IEPs. Thus, we recommend that schools implement alternatives to suspensions, such as positive behavior intervention supports (PBIS) and trauma-informed practices.<sup>50</sup>
  
- ▶ Students' due process rights should be fully protected.
  - » While DCPS has made some improvements in the hearing waiver procedures, DCPS should completely discontinue the practice of asking parents to waive their right to a hearing.
  - » LEAs, including charter schools, should provide parents with a current list of legal services providers when they suspend and/or expel students.
  - » All public charter schools should include appeal rights in school disciplinary policies.
  - » OSSE's non-regulatory guidance on school discipline provides constructive guidance regarding federal and local legal requirements that schools are expected to fulfill; however, the guidance does not require a basic floor of due process protections. Thus, as we recommended in our last annual report, OSSE should still consider publishing state-level discipline regulations that provide a minimum threshold of due process protections. A minimum threshold of due process protections will help ensure that vulnerable populations, such as students of color and students with disabilities, are not disproportionately affected. ■

## SECTION VII

### CONCLUSION — LOOKING AHEAD

Over more than two years of operation, we have been honored to help over 1,000 families reach resolution in their individual cases. We have found through the course of our work that we are helping some of the most vulnerable students and families in D.C. We continue to look for ways to work more collaboratively with some of our District Government agencies and community based organizations in order to meet the needs of the “whole child.” Our goal is for all D.C. public school parents and families to be aware of our services should they require them. At the Office of the Ombudsman for Public Education, we welcome your input and hope to meet you in the coming school year! ■



# APPENDIX

## Work Summary for the School Year 2015-2016

Complaints received

478 complaints through July 31, 2016

Complaints examined and resolved informally:  
[informal mediations, meeting facilitations, etc.]

81% of the total number of all cases, 431 cases

Complaints examined and resolved through a formal process

1 (0.2%)

Complaints dismissed as "unfounded"

6 cases (1.25%)

Complaints pending as of August 1, 2016

55 additional cases were pending as of August 1, 2016

Recommendations made

21 cases (4%)

Recommendations that were followed, to the extent that it can be determined

14 cases (67%)



## ENDNOTES

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# Members of the State Board of Education 2016

PRESIDENT AND WARD 2 REPRESENTATIVE

Jack Jacobson

VICE PRESIDENT AND WARD 7 REPRESENTATIVE

Karen Williams

## BOARD REPRESENTATIVES

**Ward 1** Laura Wilson Phelan

**Ward 2** Jack Jacobson

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**Ward 5** Mark Jones

**Ward 6** Joe Weedon

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## Student Representatives 2015 - 2016

Destinee Whittington | Brian Contreras



**DC** Office of the  
**Ombudsman**  
for Public Education

