



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

**Hearing on the Public School Transparency Amendment Act of 2019 and
Public Charter School Closure Amendment Act of 2019
Committee of the Whole and the Committee on Education
October 2, 2019**

Chairman Mendelson, Chairman Grosso, Councilmember Allen and councilmembers, thank you for inviting me to speak today on the issues of transparency and accountability for our city's public charter schools. I am Scott Pearson, Executive Director of the Public Charter School Board.

The Public School Transparency Amendment Act would require public charter schools to be subject to the DC Open Meetings Act, the Freedom of Information Act, and several other requirements.

As I testified in June on another piece of legislation, we support the requirement that board meetings of public charter schools be made public when discussing expansion, budgets, or closure. We believe that there need to be a few closed session exemptions to account for areas where public charter schools as independent 501(c)(3)'s are different from government entities. This includes exemptions for information concerning individual students or staff or matters that would materially affect their competitive position in relation to other schools. By adding clarity to the law, it will benefit both the school's boards, families, and staff.

To me, transparency is an essential part of the public charter school concept. It goes hand in hand with flexibility and accountability.

The question for me is not whether charter schools should be open and transparent. The question is what is the best way to achieve this end. Our primary goal is that our schools ensure students perform well academically. We have worked for years at the Public Charter School Board to make more information available to the public in the smartest way possible.

- When it comes to how public charter schools spend their money, every public charter school is subject to an annual audit by a third party certified public accountant approved by a committee of the Public Charter School Board, the OCFO, and OSSE. Those audits are published

on our website, along with schools' IRS tax returns and their annual budgets. Each is verified and accessible to anyone who wants to take a look. In addition, we require schools to break down their expenditures into four categories – occupancy, personnel, student support, and administration -- so that school expenditures can be compared with each other on an apples to apples basis. This report is released to the public through our Financial Analysis Report.

- Looking at school operations, performance and governance, we post schools' charter goals, their student handbooks, average high and low teacher salaries, academic data, student commute maps, enrollment and demographic data, annual reports, at-risk funding plans, and contact information for the school's board. This year we are adding to this board of trustees meeting calendars, including which meetings are open to the public, approved school board meeting minutes, the current salaries of the five most highly compensated individuals in the organization, and the contact information for key staff.
- We post on our website extensive information about our oversight of each school, including a school's five- or ten-year review and renewal reports, equity reports, performance reports, compliance review reports, and detailed writeups from our classroom observations.

All the information I've just described is publicly available and easy to locate on our website. We've tried to include everything a family would want to know about a school. If there is more information folks want, we are certainly open to discussing how we can make that available.

I have noticed that many have been conflating "transparency," with FOIA. FOIA is a *tool* of transparency, one which we believe is inappropriate to apply towards small, independent 501(c)(3) organizations. It is a blunt instrument that will do little to provide families with the information they need and want while having the potential, through its cost and time demands, to take resources away from the school quality goals we all share. If our goal is transparency, FOIA misses the mark, especially for families with limited time and resources.

Years ago, policymakers decided to address the issue of sunshine in public charter schools by making DC PCSB subject to FOIA. As a result of working closely with schools across all issue areas, we can provide most, if not all, of the information sought after by the public. We receive requests from all types of citizens including journalists, academic researchers, union representatives, parents, and teachers. For FY 2018, the sum of requests totaled 73. This year, we have already surpassed that number.

But the number of requests only tells part of the story. The key metric in assessing a FOIA request is the scope. Some freedom of information requests are narrow and can be completed in under an hour. However, larger requests can take hundreds or even thousands of hours to complete and have the potential to paralyze a small organization. This is where our overall concern lies.

In recent months, DC PCSB itself has received multiple requests that encompass hundreds of thousands of responsive documents and will require hundreds of hours of review. There is a multiplier effect on the staff cost and hours. Documents must generally be reviewed by multiple staff members, including those with a legal background, to ensure that no protected student data or other confidential or privileged information is accidentally released.

Let me provide two recent examples:

- We recently received a request made asking for all emails DC PCSB staff have sent with a lengthy list of recipients going back to 2015. A preliminary search returned an estimated 3.2 *million* pages of responsive documents. So far, we've been able to narrow the request to 1.9 million pages, but the requestor has been largely unwilling to work with us on reducing it any further. We estimate this will take three employees working full time over a year to review all of these documents. Imagine a school dealing with this, and the diversion of resources from student facing work.
- Another recent example is a multi-part request that we completed. This request ultimately took nearly 500 hours of staff time to complete. That amounts to one staff member spending 12 and a half work weeks focusing on this issue alone. I would also note that, under current law, there is a very high threshold for a request to be considered overly broad or onerous.

I would hope most schools would not regularly receive requests like these. In fact, some schools may not receive any requests at all. But I would also expect schools experiencing turmoil, the schools that can least afford to spend time digging through and reviewing emails and other documents, will be the ones impacted.

Since many schools do not have an in-house legal team, much of the work of information gathering and review will fall on teachers and staff. Therefore, most will need to work with outside attorneys who are not on school email systems, and do not have the ability to search through the communications

of staff. In practice, this means the work of searching will likely be performed by the teachers whose work is implicated by the request. The results will then be sent to the legal counsel to apply any exemptions and redactions, at a substantial hourly fee.

There are more effective and efficient ways to satisfy the public's desire to understand the work of public charter schools. FOIA will not give families information on their student's performance or IEP decisions they can't already obtain under federal law. FOIA will not improve communication between families and schools. FOIA will not help a family understand a budget. FOIA may not even produce deliberative emails between board members, which will be searched, reviewed, and ultimately redacted.

The harmful effects of FOIA go beyond the trouble of searching and reviewing documents and emails. As members and staff of the Council know only too well, the presence of FOIA inhibits free and open electronic communication. This makes decision makers less able to engage in the kind of open electronic communication that allows organizations to operate at peak performance.

The process of FOIA takes time and focus off students and off the operations of the school. And this is the fundamental issue we have with this bill: it will do nothing to improve student achievement; instead, it will make it harder for schools to be truly excellent. We honestly believe that FOIA will not further the cause of quality schools and instead result in school spending hours and dollars that could otherwise be spent on students for a gain in transparency that we believe will ultimately be negligible.

With this reality in mind, I ask that we work together to identify inaccessible information and figure out ways we can make that public instead of subjecting individual schools to this catch-all tool of FOIA. In the long run, it will be more helpful for schools to give families and communities specific information rather than inundate them with thousands of pages of irrelevant documents.

Public Charter School Closure Amendment Act of 2019

Before I conclude my testimony, I would like to turn my attention to the Public Charter School Closure Amendment Act of 2019 to express my support. As an independent authorizer, DC PCSB is required to hold each public charter school to high standards -- we must not only hold school leaders accountable for academic success, but also ensure they are acting in the best interest of all students attending the school.

Over the next two school years, DC PCSB will conduct a high-stakes review of 29 different public charter schools. Some of these reviews could result in a school closure.

Closing a school and settling its finances is a complex process that requires robust oversight. During the public charter school closure process, our oversight of school operations is hampered by the fact that the school's charter has already been revoked or non-renewed. Our ultimate leverage is gone. As such, it becomes more difficult to address issues that may arise during the school's wind-down period, such as those involving the school's expenditures and finances; oversight of school personnel; and cooperation with the transition efforts of the acquiring school in the event of an asset acquisition.

The ability to impose conditions will help DC PCSB perform its oversight obligations more effectively during a closing school's final months of operation. Importantly, DC PCSB will be better able to safeguard public funds that a school might otherwise use inappropriately. For example, we could impose a condition that all of a school's expenditures over \$10,000 would be subject to DC PCSB approval, which could prevent a school leader from receiving a golden parachute. Those funds, if otherwise unspent, would go back to OSSE and be redistributed upon dissolution of the school.

The proposed bill will also help the DC PCSB ensure positive outcomes for students in the closing school, including helping those students enroll in a high-quality school for the following school year. For example, we could require that schools hire more staff if there is an uptick in safety incidents. We could require schools to offer retention bonuses to teachers or employees to help ensure students finish out the school year in a safe and stable environment. We could demand that schools turn over contact lists to our enrollment specialists or require schools to allow us to send enrollment specialists to school property to ensure families are apprised of their options.

I know I usually appear before you to advocate for preserving school autonomy, and I recognize this bill goes in the opposite direction. However, it applies only in the narrowest of cases – specifically those few months between when the board votes to close a school and when it actually closes its doors and winds down its operations. We believe it will considerably improve our ability to safeguard public funds and ensure better outcomes for students in closing schools

As the sole charter authorizer in our nation's capital, DC PCSB has been long committed to providing families, students, and the public with information on public charter school performance. That is why we collect and publish so

much detailed information about every single public charter school in the District. DC PCSB remains committed to working closely with schools across all issue areas, to provide most, if not all, of the information sought by the public in the interest of what is best for students. Thank you again for this opportunity to testify. I am happy to answer any questions.