District of Columbia

Office of the Ombudsman for Public Education

2015 ANNUAL REPORT

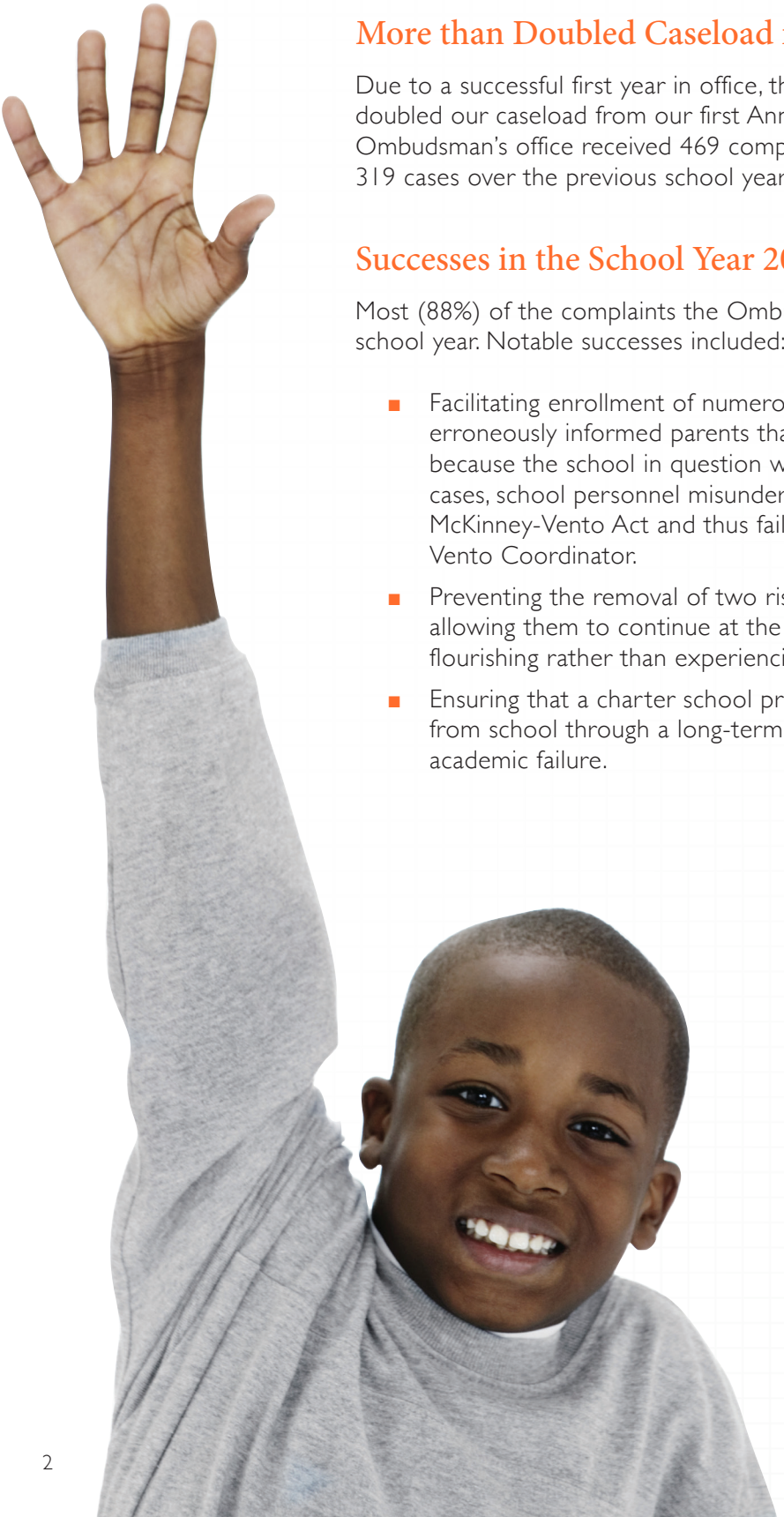
Joyanna Smith, Ombudsman for Public Education

DC Office of the Ombudsman for Public Education

OFFICE OF THE OMBUDSMAN FOR PUBLIC EDUCATION

ANNUAL REPORT 2015

Executive Summary



More than Doubled Caseload in School Year 2014-15

Due to a successful first year in office, the Ombudsman's Office has now more than doubled our caseload from our first Annual Report issued in September 2014. The Ombudsman's office received 469 complaints in School Year 2014-2015, an increase of 319 cases over the previous school year's 150 complaints.

Successes in the School Year 2014-2015

Most (88%) of the complaints the Ombudsman received were resolved in the 2014-2015 school year. Notable successes included:

- Facilitating enrollment of numerous homeless children after multiple schools erroneously informed parents that the children were not allowed to enroll because the school in question was "not their in-boundary school." In these cases, school personnel misunderstood the federal and local requirements of the McKinney-Vento Act and thus failed to direct families to the designated McKinney-Vento Coordinator.
- Preventing the removal of two rising 8th graders with intellectual disabilities, allowing them to continue at the DCPS middle school where they had been flourishing rather than experiencing a disruptive transition to another school.
- Ensuring that a charter school provided tutoring support to a 7th grader removed from school through a long-term suspension in an effort to prevent further academic failure.

"The Ombudsman went above and beyond the call of duty. She was endlessly patient."

- Mother of high school student seeking special education placement.

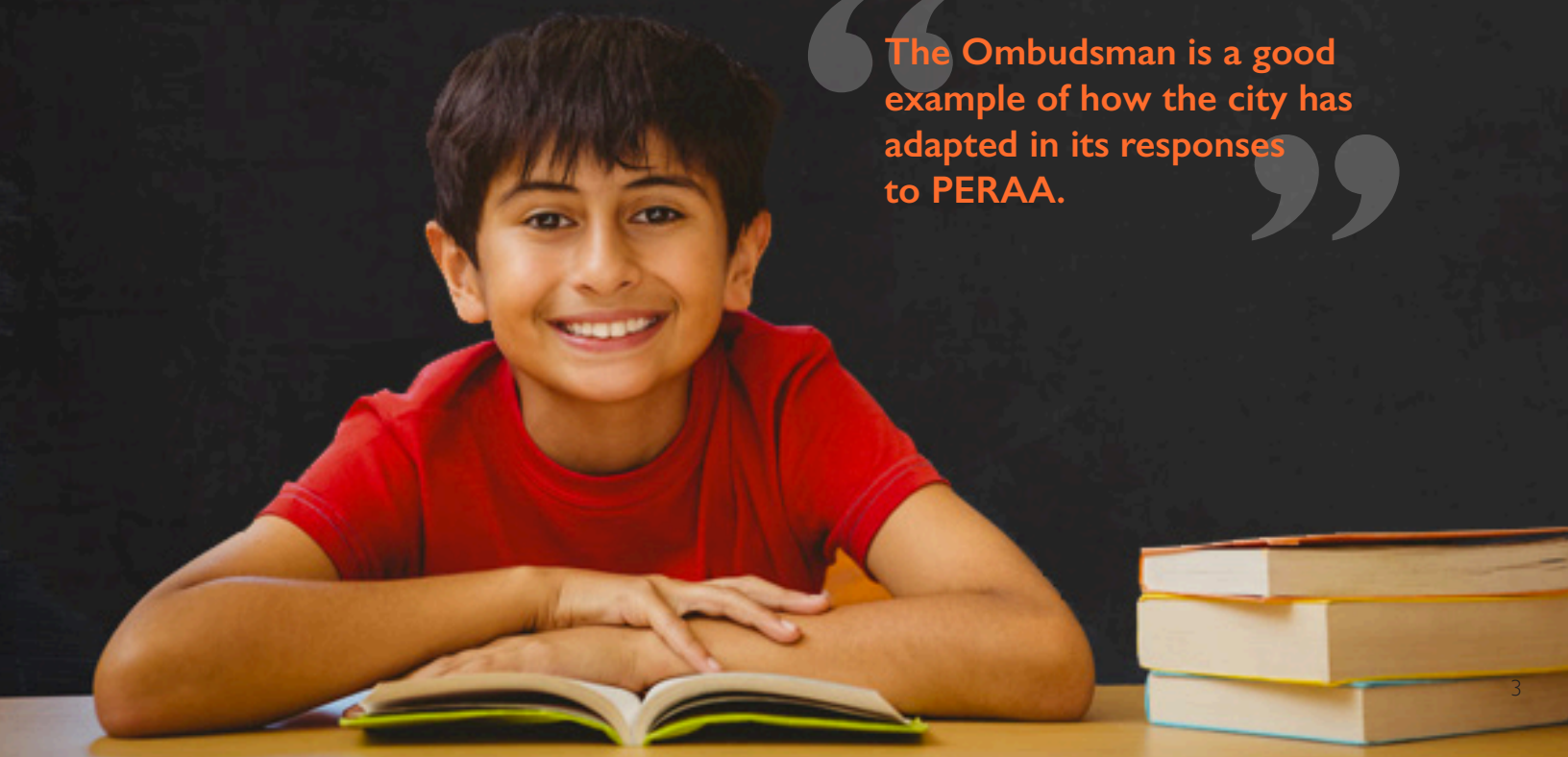
Overview of complaints during School Year 2014-15

As in 2014, the office received complaints from all eight wards, and nearly half of the complaints came from families living in Wards 7 and 8. Similar to School Year 2013-14, the majority of complaints were from parents of DCPS students. Nearly one-third of the 469 complaints came from parents of students in the DC public charter schools, which represents a small increase over last year's 25%.

Student discipline (16%) and special education (15%) continue to be the most common complaint issues, followed by student safety/abuse (9%), enrollment (8%), bullying (8%), and truancy/attendance (7%).

Top Recommendations for Improving DC's Public Education Systems

- Disciplinary responses should focus on keeping students in school.
- Students' due process rights must be fully protected in the discipline process. In particular, DCPS should suspend its practice of asking parents to waive their right to a disciplinary hearing.
- DCPS and MPD should clarify, align, and make publicly accessible policies regarding investigating allegations of corporal punishment.
- Schools and school districts should include parents in policy development as much as possible.
- All DC schools should work with the Citywide Youth Bullying Prevention Program to implement appropriate curricula to prevent bullying and improve school climate.
- School staff should treat parents with respect and communicate with them regularly and openly.



"The Ombudsman is a good example of how the city has adapted in its responses to PERAA."

Letter from the Ombudsman for Public Education

September 16, 2015

To: District of Columbia State Board of Education

We are delighted to have completed our fall 2015 school year in the re-established Office of the Ombudsman for Public Education. This year was marked by growth: an increasing caseload, greater outreach, more involvement in policy discussions, and stronger partnerships with government agencies and community groups.

The Office of the Ombudsman for Public Education was re-established in order to help parents, students, and families with questions, concerns, or complaints in any area that affects student learning. Our jurisdiction includes both District of Columbia Public Schools and District of Columbia Public Charter Schools. By assisting parents outside of the judicial system, we aim to equalize inequities in power distribution, reduce litigation, and achieve quick resolutions that serve students' best interests. We also act as an early warning system for schools, alerting them to emerging problems before they become systemic issues.

As Education Ombudsmen, we resolve issues through informal and formal conflict resolution practices. We offer confidential services because we recognize that confidentiality is essential to gaining the trust of families and encouraging openness both from the complainant and the public school system.

During the 2014-2015 school year, we expanded our caseload significantly. To handle that increased caseload, we added an Associate Ombudsman in August 2014 and recruited a cadre of skilled Fellows. In the coming year, we will continue expanding our outreach. We plan to hire an Intake Specialist in fall 2015 to ensure that we have the capacity to meet the increasing demand for our services. We are also committed to reaching limited and non-English speaking residents. Thus we plan to translate our core materials and website language into Spanish by early fall and to engage in additional outreach in this area.

I am pleased to present the data and recommendations in the following pages. As we embark on the 2015-2016 school year, I look forward to working in partnership with the District of Columbia State Board of Education, the District of Columbia Public Schools, the Public Charter School Board, and charter LEAs to improve educational outcomes for DC students.

Warmly,

Joyanna Smith

DC Office of the Ombudsman for Public Education

Section I. The Office of the Ombudsman for Public Education

Staff

Joyanna Smith, **Ombudsman for Public Education**
Elizabeth Tossell, **Associate Ombudsman for Public Education**

2014-2015 Fellows
Jason Amirhadji, Caroline Cragin, Yasmin Fletcher, Holland Rainey, Katelyn Sedelmyer, Beryl Trauth-Jurman, Khadijah Williams

Interns
Marianna Abraham, Michael Schwartz

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, very few jurisdictions have independent Ombudsman's offices for public education.

Legislative History of the Office of the Ombudsman

In 2007, PERAA (the "Public Education Reform Amendment Act of 2007") initiated landmark education reform in the District of Columbia.[1] The Office of Ombudsman for Public Education was established as a central venue for parents to register concerns and resolve disputes. The office was also intended to provide transparency and accountability as the new educational system for DC evolved. PERAA focused on five agencies that would govern and operate the public schools: 1) D.C. Public Schools (DCPS), 2) the new Public Charter School Board (PCSB) created to oversee charter schools, 3) a new State Education Agency, the Office of the State Superintendent for Education (OSSE) to fulfill federal monitoring and supervision requirements, 4) a new State Board of Education (SBOE) to replace the policy functions of the former Board of Education, and, finally, 5) a new Deputy Mayor for Education (DME) to coordinate across all city agencies responsible for education, health, mental health, social services, and juvenile justice.[2]

The PERAA law laid out responsibilities for the Office of the Ombudsman that included reaching out to parents and residents; serving as a vehicle for communication; receiving complaints and concerns, determining their validity, developing a response to complaints; identifying systemic problems; making recommendations based on observed patterns; and issuing annual reports.

Despite its essential role, the office was defunded for several years. In 2012, the Council of the District of Columbia recognized the continuing great need and strong community desire for such an entity, and re-established the Ombudsman's office within the State Board of Education through the "State Board of Education Personnel Authority Amendment Act of 2012."[3] Accordingly, the office was re-established and with the appointment of the current Ombudsman for Public Education, Joyanna Smith, the office formally re-opened its doors to District of Columbia families on February 26, 2014.

[1] D.C. Act 17-38.

[2] Committee for the Five-Year (2009-2013) Summative Evaluation of the District of Columbia Public Schools. (2015). *An evaluation of the public schools of the District of Columbia: Reform in a changing landscape*. Retrieved from http://www.nap.edu/catalog/ 21743/an-evaluation-of-the-public-schools-of-the-district-of-columbia

[3] D.C. Act 19-651.

> **"The ombudsman was intended to be the primary channel through which public school parents could communicate with school officials and seek redress for complaints…"[4]**

Role of the Ombudsman

The Office of the Ombudsman for Public Education is an independent, neutral office that helps parents and students resolve school complaints. We transform problems into solutions for improving educational access for students.

Transparency and Accountability

PERAA also addressed the issue of accountability to the public, in part, by calling for an ombudsman. According to the recently issued PERAA report, the ombudsman was intended to fill a role previously played by the former Board of Education which used to be a venue for DC residents and parents to voice their concerns. With just two full-time employees, the Office of the Ombudsman has been able to more than double its case load from SY 2014-15 to SY 2015-16. Such growth demonstrates the continuing need for an independent voice and neutral channel to help parents navigate through the complex education systems in Washington, DC.

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 with the public schools and are empowered to make informed decisions that improve student achievement.

Our Goals

We have achieved a great deal since our reauthorization in 2014. Our first annual report was released just six months after we re-opened our doors. Last school year, we were able to expand our outreach to more than double the families served because of the continued support of the Council of the District of Columbia and the State Board of Education.

What We Do

- Provide conflict resolution for issues that affect individual students.
- Inform families about the educational opportunities and resources available in DC.
- Encourage effective communication between parents and schools.
- Act as a source of early detection for emerging school system-wide issues.
- Prevent recurring problems and improve existing processes by collaborating with families and stakeholders to effect systemic change.
- Contribute creative policy solutions by identifying and sharing trends we observe.
- Reduce the need for administrative hearings and litigation by facilitating informal resolution of education-related conflicts.

Once we have completed an intake with a family, we may take a number of steps depending on the situation. We typically begin by researching applicable education laws, policies, and best practices. We also communicate with the parties involved, which may include teachers, principals, other school staff members, and witnesses to the situation in question. We review student records in order to have a full understanding of the issue. In many cases, our staff facilitates conversations between parents and school officials. Our goal is to guide all parties toward resolution of the problem with a primary focus on the best interests of the student.
As an example of our approach, if a party has reached out to the office about a long-term suspension, we typically: 1) identify the applicable discipline policy, 2) review the facts to determine whether the school system is following the appropriate process based on the policy, 3) ensure the long-term suspension did not violate any specific law, 4)

[4]National Research Council. (2011). *A plan for evaluating the District of Columbia's public schools: From impressions to evidence.* Retrieved from http://www.nap.edu/catalog/13114/ a-plan-for-evaluating-the-district-of-columbias-public-schools

explain school processes to the parents and families, and 5) determine the most expedient way of getting the student back in school.

What We Do Not Do

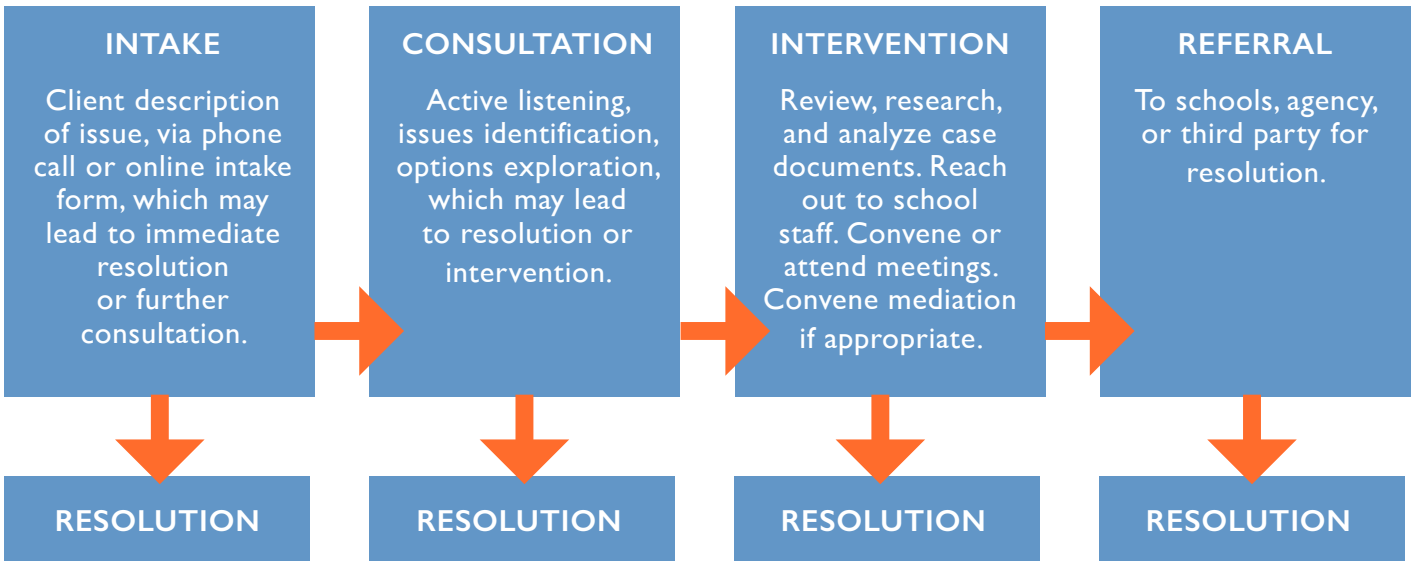
Because of the informal, neutral, confidential, and independent positioning of an ombudsman office, we do not undertake the following roles or activities:

- Participate in formal investigations or play any role in a formal judicial proceeding.
- Serve in any other organizational role that would compromise the neutrality of the ombudsman role.
- Make binding decisions or mandate policies. We cannot force a school or a Local Education Agency (LEA) to take a specific action.
- Provide legal advice or legal services.
- Intervene in school personnel decisions. We have no authority to hire or fire anyone based on the merits of a complaint.

Our Case Process — How We Get Results

The Ombudsman's case management process[5] has four (4) steps, though some may repeat:

1) Intake 2) Consultation 3) Intervention 4) Resolution/Referral



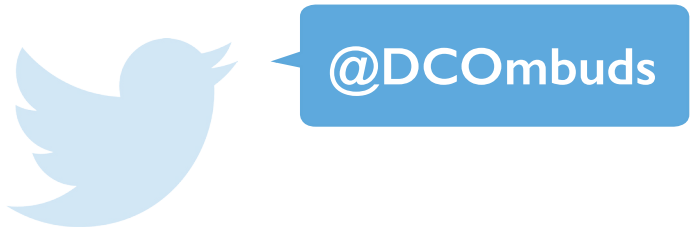
[5] Adapted from Washington State Office of the Education Ombudsman. (2011). *Ombudsman resource manual.*

Section II. Stakeholder Engagement and Outreach Efforts

We more than doubled our community outreach events during the 2014-2015 school year. Some of our events included:

EdFest
Office for Human Rights Bullying Prevention Forum
DC National Pan-Hellenic Council Fair
OSSE Secondary Transition Fair
Ward 4 Education Alliance
DC Action for Children
DC Fiscal Policy Institute
Quality Trust for Individuals with Disabilities
Family Voices of DC
Every Student Every Day Coalition
Advocates for Justice and Education
SchoolTalk
Homeless Children's Playtime Project
Washington Legal Clinic for the Homeless
Critical Exposure
DC Special Education Cooperative
District of Columbia Association for Special Education (DCASE)
Public Charter School Board
DC Public Schools (DCPS) Instructional Superintendents
DCPS Office of Specialized Instruction
DCPS Office of the General Counsel
Office of the State Superintendent of Education (OSSE) Office of Dispute Resolution
OSSE Re-Engagement Center
DC Department of Human Services
DC Department of Behavioral Health
DC Department of Youth Rehabilitation Services
DC Child and Family Services Agency
Metropolitan Police Department School Safety Division
Council for Court Excellence
DC Superior Court Family Division
DC Alliance for Restorative Practice

We post regularly on Twitter with the handle @DCOmbuds. We post useful information for parents and schools related to education policies and conflict resolution best practices.



We MORE THAN DOUBLED our twitter presence in 2015, increasing from 160 to 385 FOLLOWERS.

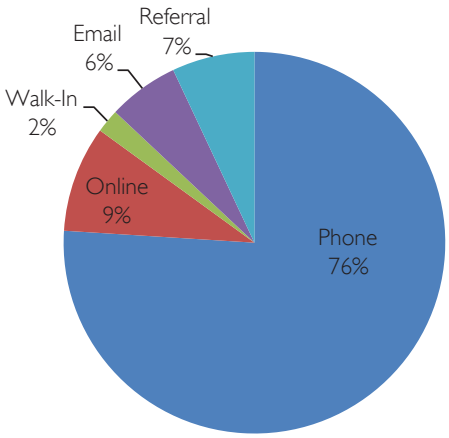
We also GREATLY INCREASED OUR POSTING RATE, increasing our overall tweets from 19 tweets in 2014 to 216 tweets so far in 2015.

Section III. 2015 Ombudsman's Office Data

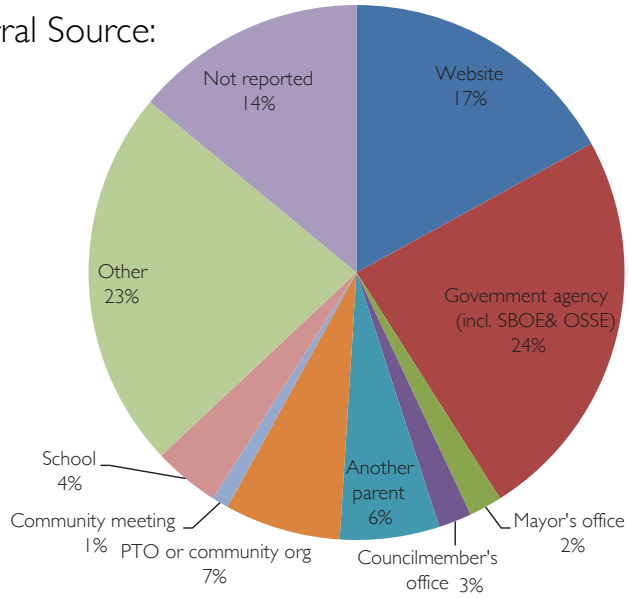
Who We Serve

The majority of our intakes begin with a phone call to our intake line. 24% of our families found out about our office from another DC government agency and 17% of our families found out about our services from our Ombudsman website. Other common referral sources included community organizations, schools, parents, and DC Council offices.

Contact Method:

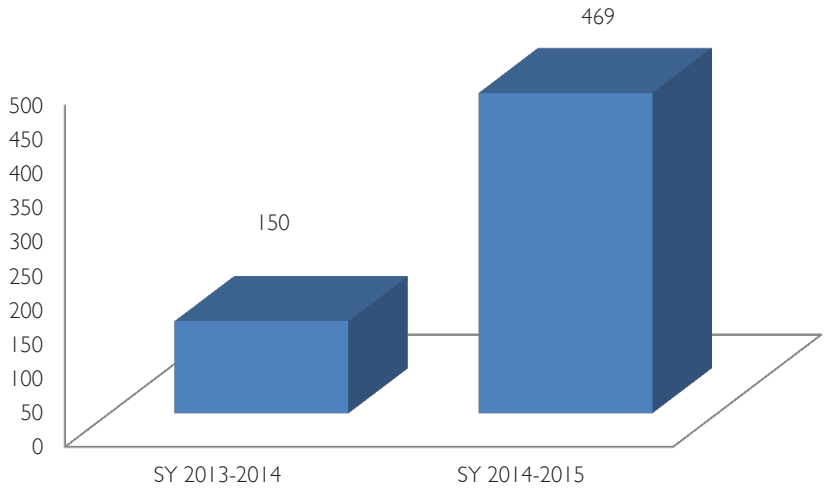


Referral Source:



Complaints by School Year[6]:

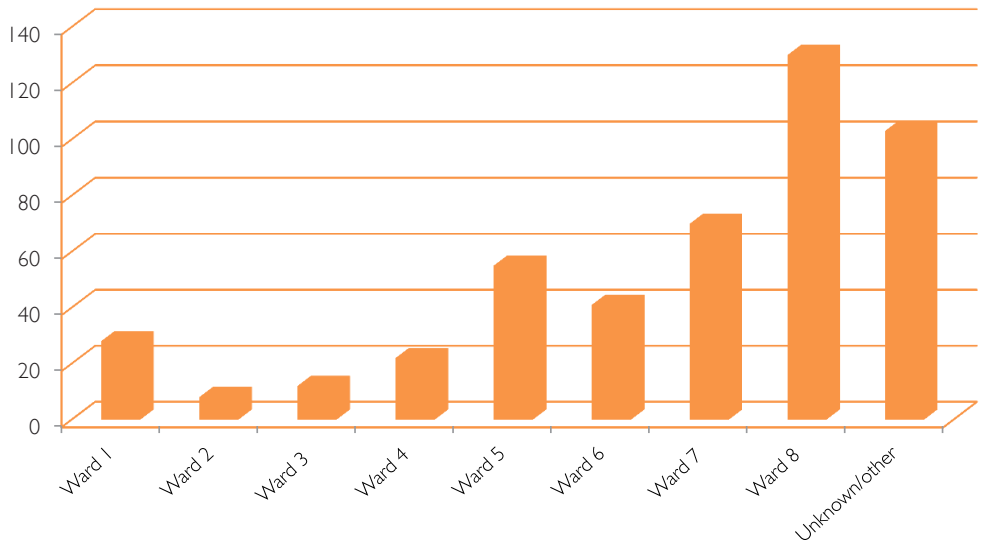
In school year 2014-2015, we received 469 complaints, more than doubling our caseload from last school year.



[6] We included cases in last year's annual Ombudsman report from February 2014 to August 15, 2014. For this and future annual reports, we use a school year of August 1 - July 31. If we had used that timeframe for the school year in last year's annual report, we would have reported 134 cases for school year 2013-2014.

Number of Complaints by Ward:

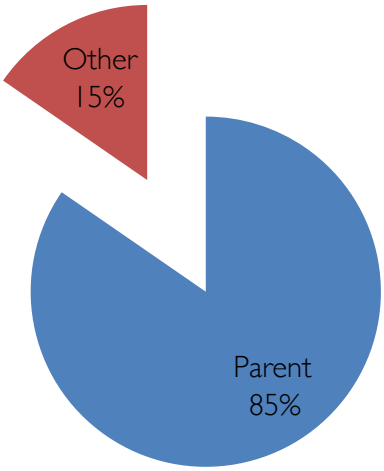
We received complaints from all eight wards. Wards 8, 7, and 5 were the most highly represented.



Caller Type:

The vast majority of our intake calls came from parents. We also received a substantial number of calls from grandparents, legal guardians, attorneys, and students.

The majority of parents calling our office identified their race as African-American or Black, which is to be expected given that 73% of students in the DC public schools identify as African-American.[7] Note that since we do not require callers to identify their race, 19% of parents chose not to provide that information.



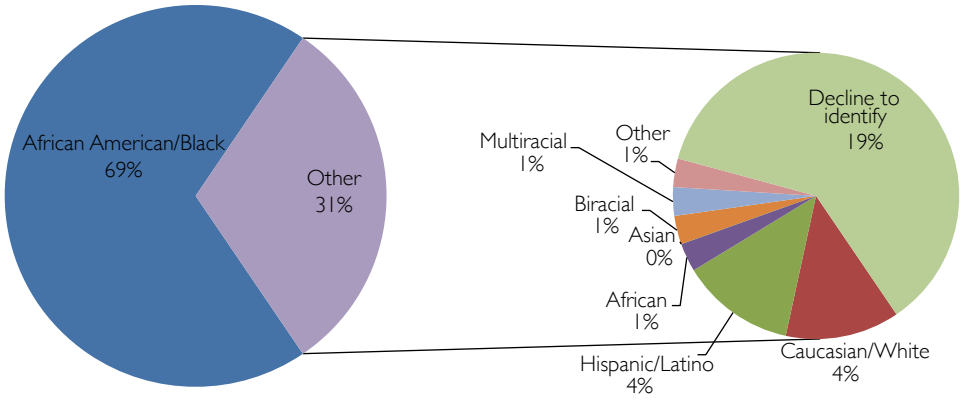
Before the Ombudsman started talking to the school, they didn't want to do what my son needed. Because she talked to him, they sent teachers to my house so he could finish the year.

-Mother of a middle school student given a long-term suspension from a charter school.

[7] District of Columbia Public Schools, District of Columbia Public Charter School Board, & Office of the State Superintendent of Education. (2013). *District of Columbia school equity reports*. Retrieved from http://www.scribd.com/doc/190947805/District-of-Columbia-School-Equity-Reports-2013

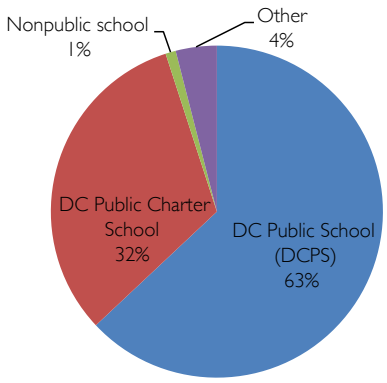
As we consider our reach into non-English speaking populations, our data revealed that eight callers to our office required Spanish translation. In future school years, we plan to expand our outreach in the Spanish-speaking community, as well as with other non or limited-English speakers.

Parent Race:

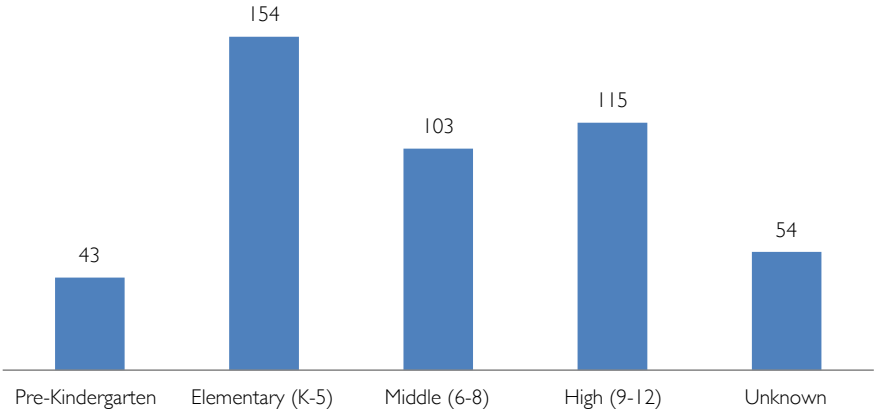


The majority of complaints received involved DCPS schools. We received the most complaints regarding elementary school students followed by high school students.

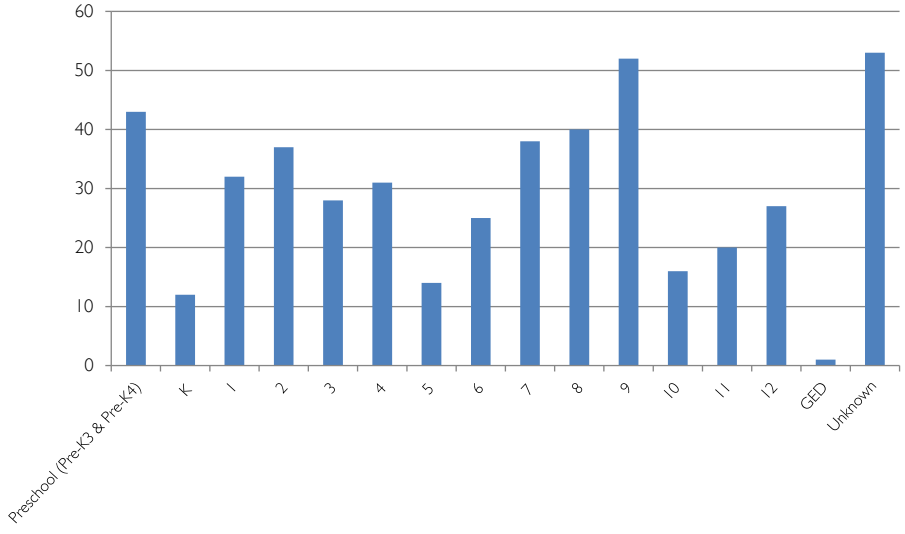
School Type:



Grade Level:



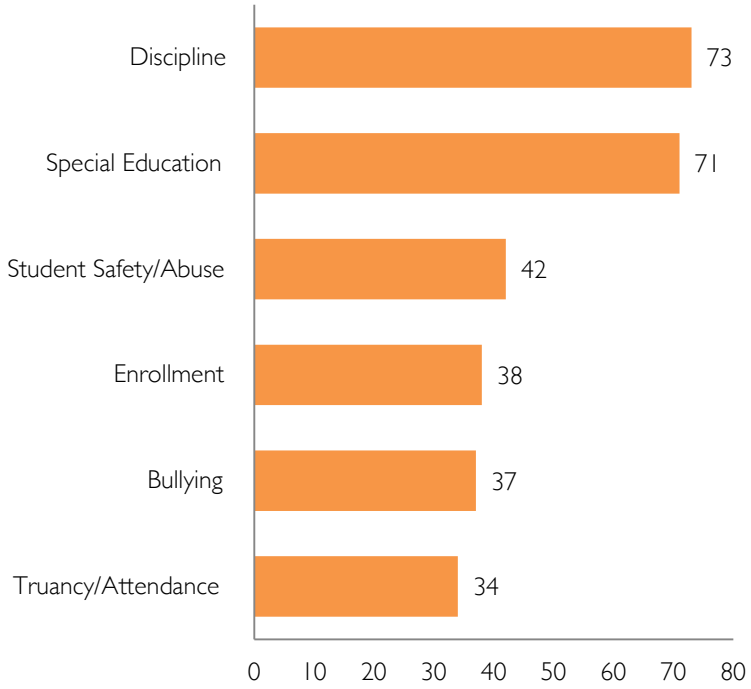
Number of Complaints by Grade:[8]



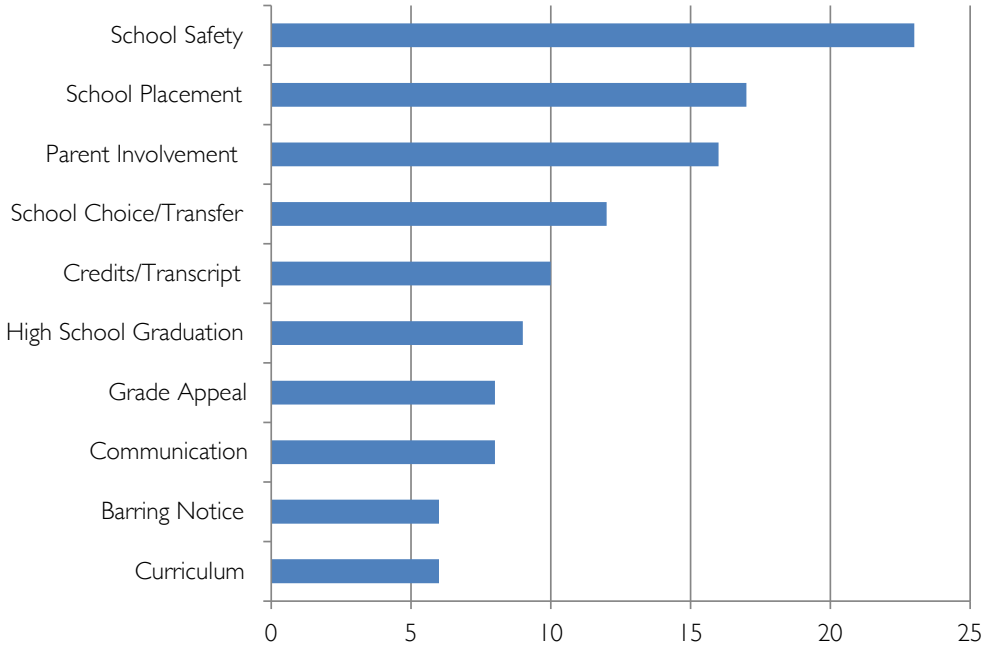
[8] During FY15, we did not distinguish between Pre-K3 and Pre-K4 in our data reporting. In the future, we will break them out separately.

The majority of complaints were about discipline, special education, student safety, enrollment, bullying, and truancy/attendance issues.

Top Complaint Types:

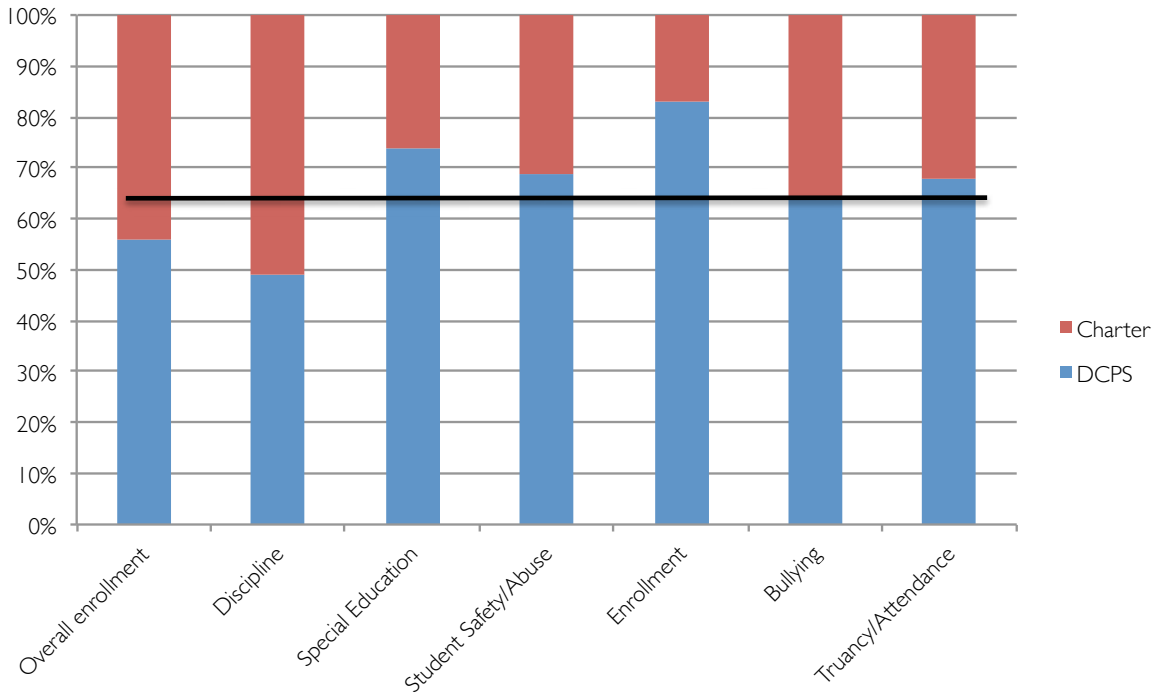


Other Common (n>5) Complaint Types:

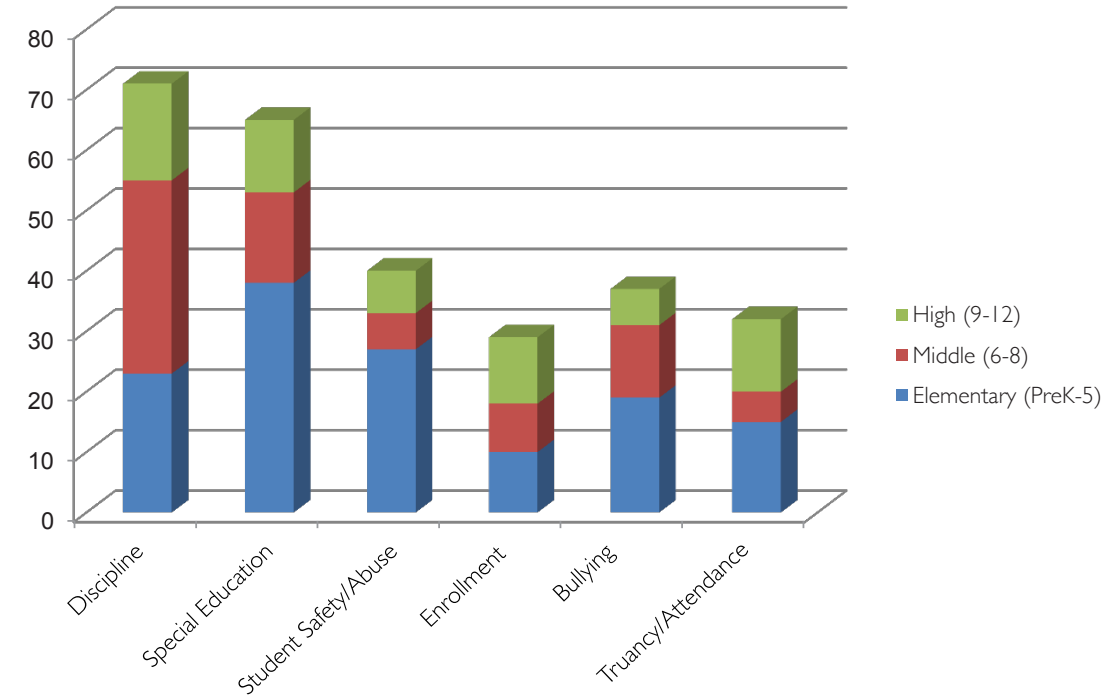


Top Complaints by School Type:

Charter schools were somewhat overrepresented among discipline complaints. DCPS schools were significantly overrepresented among special education, enrollment, and student safety/abuse complaints.



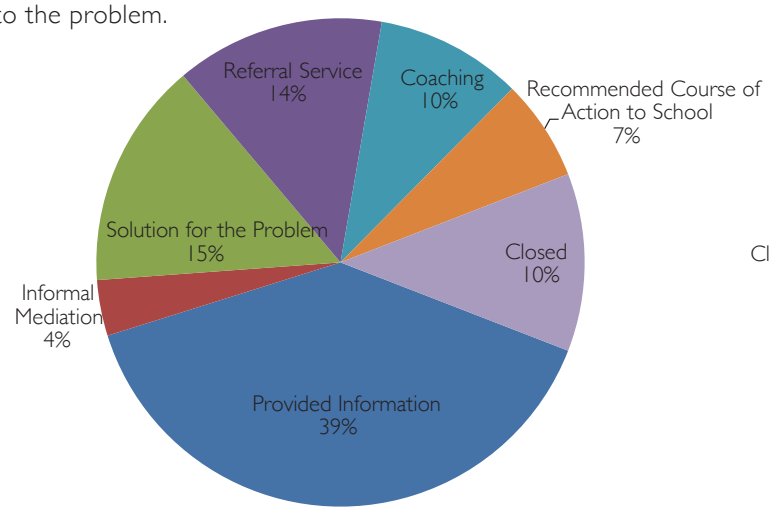
Top Complaints by Grade:

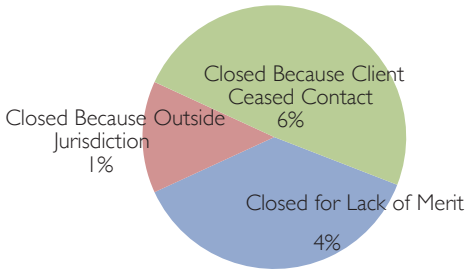


Section IV. Common Complaint Resolution Outcomes

We successfully resolved 88% of our cases, most typically through providing information or intervening with a solution to the problem.

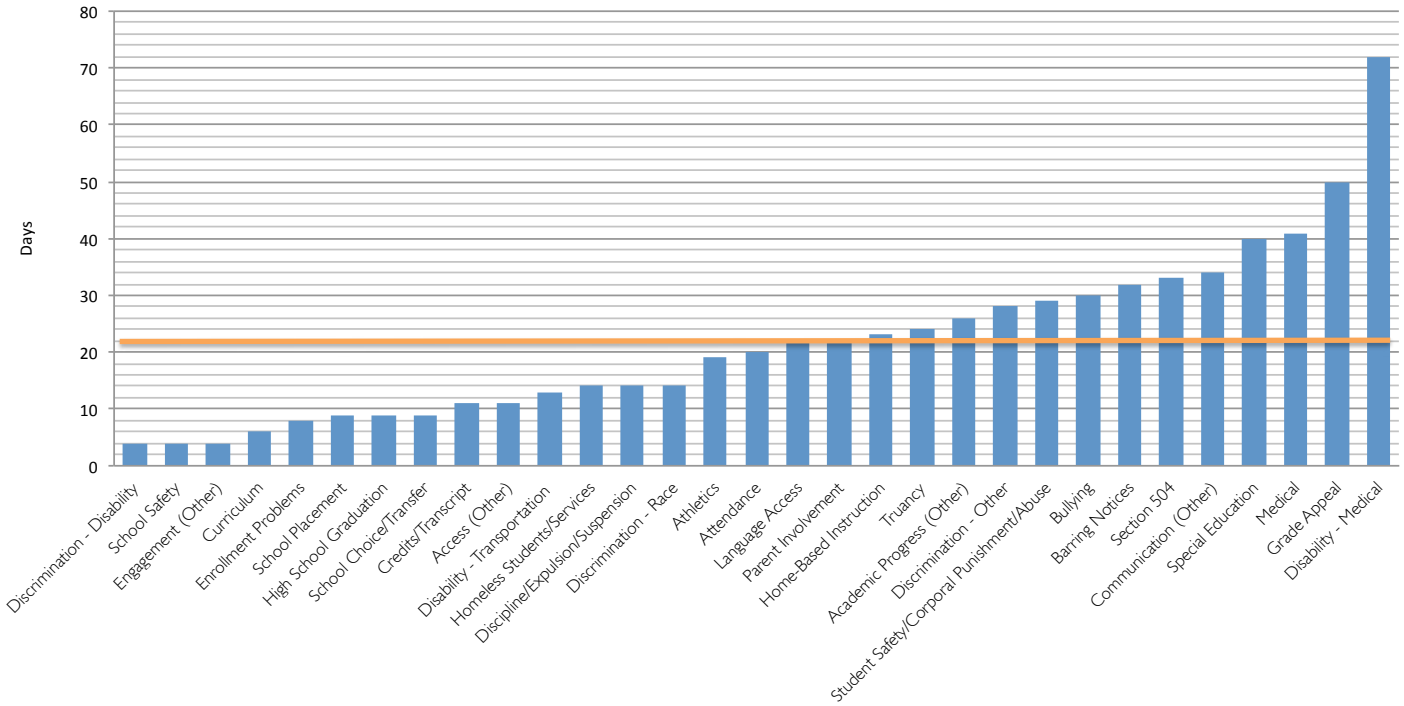
Of the cases we could not resolve, the most common reason was because the client ceased contact with our office.[9]





Time to Resolve Case by Issue Type:

Our average time to reach a resolution was 22 calendar days. We typically resolved enrollment, school choice/transfer, and school placement cases within one week. In discipline cases, we typically reached resolution within about two weeks. Bullying and special education cases typically took about one month to reach resolution, with a variance from several days to several months. We often perform on-site facilitation in these cases which is partly the reason for the variance. While we aim to resolve all complaints as quickly as possible, we will keep cases open as long as required to reach a resolution that furthers the student's best interest.



[9] In these cases, after our office makes repeated attempts to contact the client through email, phone calls, and/or by letter, it is our standard practice to close the case. Such an instance will be logged as a case with no resolution.

Section V. Representative Accomplishments

Accomplishments During the 2014-2015 School Year

- ☑ Prevented the transfer of two rising 8th graders with intellectual disabilities out of the DCPS middle school where they had been flourishing to a new and completely unfamiliar DCPS middle school. For one of the students, the transfer would have been his third school change in three years.
- ☑ Ensured that a charter school provided tutoring support for a 7th grader serving a long-term suspension.
- ☑ Assisted parent of an 8th grader with high-functioning autism in the transfer to a new DCPS school where he now has a peer group and a rigorous academic program.
- ☑ Assisted parent of a first grader with an emotional disability in having her son evaluated, found eligible for special education, and placed in an appropriate classroom at his charter school.
- ☑ Assisted multiple homeless parents with enrolling their children after various schools had wrongly told the parents that the children were not allowed to enroll.
- ☑ Identified a community organization willing to provide transportation to school for a kindergarten student whose disabled mother could not transport him to school.
- ☑ Convinced a school to evaluate a middle school student for possible disabilities after the school failed to respond to multiple requests from the parent.
- ☑ Ensured that a DCPS middle school student given a 20-day suspension was able to continue attending school until his hearing and helped his mother secure legal representation.
- ☑ Ensured that a high school student was able to continue attending his nonpublic school until a natural transition point rather than being moved in the middle of the year, which DCPS had originally proposed.
- ☑ Coached mother of a high school student with sickle cell disease on how to enroll him in DCPS school and request home instruction.
- ☑ Expedited placement process for an elementary school student enrolling in a DCPS school after expulsion from a charter school.
- ☑ Facilitated informal mediation between parent and DCPS elementary school principal to resolve parent's concerns about bullying and communication.

EXAMPLES OF OMBUDSMAN SYSTEMIC WORK:

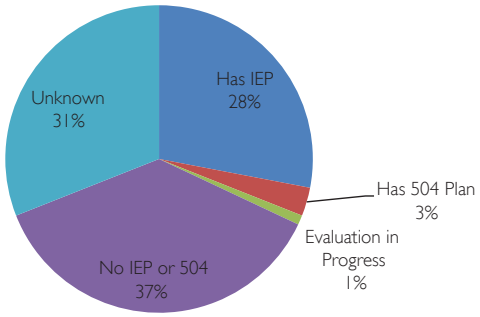
- Testified at DC Council hearing on pre-kindergarten discipline. Supported law banning suspension and expulsion for pre-kindergarten students. Advocated for increased positive behavior supports in schools.
- Testified at DC Council hearing on truancy interventions. Testified that truancy is not the problem itself but instead is a symptom of an unmet need. We must address the root of the problem, such as lack of safe housing, lack of mental health treatment, or unsafe neighborhoods.
- Guest panelist at Council for Court Excellence roundtable on DC school discipline. Raised concerns about DCPS's use of parent waivers of the right to disciplinary hearings for long-term suspensions.
- Testified at DC Council regarding the recent PERAA report. Discussed the role of the ombudsman from a systemic perspective.
- Guest panelist on "Creating a Culture of Excellence-Parenting for High Performance" forum held on Capitol Hill. Shared recommendations for more effective and relevant parent engagement as a strategy for improving school and student achievement in K-12.

Section VI. Observations

A. Special Education

Students with disabilities were disproportionately represented in the complaints we received. 35% of the complaints to our office involved children with disabilities; 28% of the complaints involved students who had Individualized Education Plans (IEPs). Given that students with IEPs represent only 13% of DC public school students, this shows that students with IEPs were disproportionately likely to need assistance from our office.[10] Moreover, our data may be an underrepresentation of the complaints with IEPs, as a significant number of callers did not know whether the child had a disability or an IEP. Instead, parents were usually calling our office because their students were failing school, missing a lot of days of school, or exhibiting behavioral problems which led to suspensions and expulsions.

Special education status:



The primary complaint topic for students with IEPs was special education. Other common complaint subject areas included discipline, enrollment, school placement, truancy, and abuse.

Many of the parents who called us believed that their schools did not engage them as equal partners in making decisions about their children's special education needs. They reached out to our office because they felt that the school was not listening to their requests or providing them with the information needed to meet the needs of their children. Specific complaints that came up repeatedly included:

- Parents were given very little advance notice of new school location assignments;
- Parents felt that the IEP team made decisions without explaining their rationale or considering the parents' input;
- Parents did not understand enough about the diagnosed disability to determine whether the proposed IEP services would actually help their child achieve academically;
- Parents received no response or a delayed response from school leaders regarding their request that their child be evaluated for special education; and

[10] LearnDC. (2015). DC Report Card. Retrieved September, 2015, from http://www.learndc.org/schoolprofiles/view?s=dc#profile

- Parents reported schools informing them that their child could not be evaluated for special education because the child was performing too well academically or only appeared to have behavior problems.[11]

The recently-passed Special Education Student Rights Act of 2014[12] takes some steps to address these concerns. It requires that schools give parents written notices of proposed changes of location of services that include a description of the reason for the change.[13] The law also makes clear that parents have the right to observe proposed special education programs.[14] In addition, the new law requires schools to provide parents with copies of draft IEPs and other relevant documents at least five business days before the meeting at which they will be discussed.[15] This is intended to help parents prepare their questions and feedback.

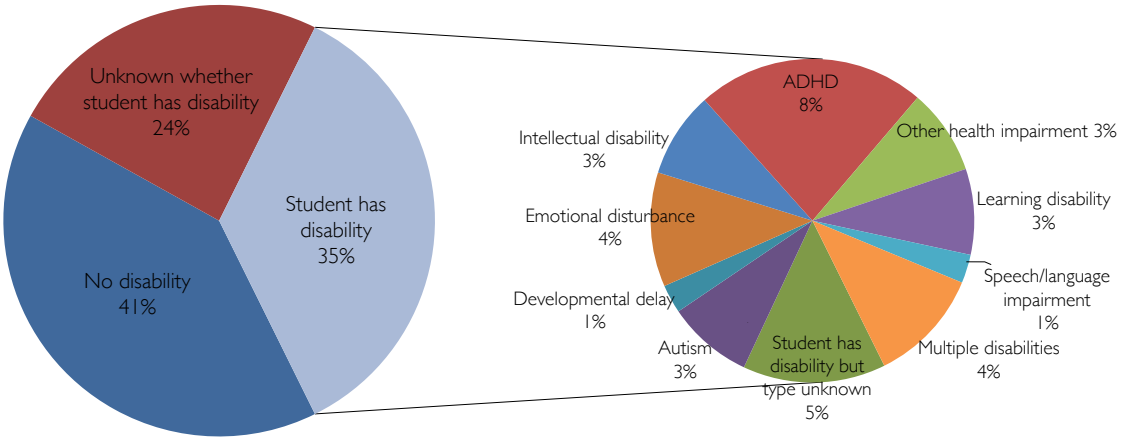
A common theme in calls to our office was that schools had not acted upon oral requests for evaluation. The recently-passed Enhanced Special Education Services Act of 2014 requires schools to accept and document oral requests.[16] We therefore expect that in the upcoming school year, schools will begin the special education evaluation process promptly upon the parent's request even if that request is not made in writing. This will require training on the new special education law for school staff.

We also found that a number of students with disabilities were not given full access to the educational opportunities available to their non-disabled peers. In particular, we noticed two troubling trends:

- Several charter schools required students to attend school for shortened schedules or required parents to provide supervision in the classroom rather than taking more appropriate steps to address the students' behavioral needs; and
- DCPS required some students with IEPs who were transferring in during the school year to wait several weeks for a placement meeting with the Office of Student Placement before they could begin school.

In addition, we found that some LEAs used eligibility criteria, whether for special education generally or for specific services, that were stricter than local and federal law allows. For example, DCPS is currently using a checklist for eligibility for speech therapy that we have seen prevent students who require the service from qualifying for it. To qualify for speech therapy – or any other related service – the only Individuals with Disabilities Education Act (IDEA) requirement is that the student must need the related service in order to benefit from their special education.[17] DCPS's checklist introduces a number of additional considerations. OSSE policy affirms that there should not be any additional criteria required to qualify

Disability type:



[11] The IDEA mandates that "as soon as a student is identified as a potential candidate for special education services, DCPS has a duty to locate that student and complete the evaluation process." *N.G. v. D.C.*, 556 F. Supp. 2d 11, 25 (D.D.C. 2008). Recent DC cases affirm this principle. *Long v. D.C.*, 780 F.Supp.2d 49, 56 (D.D.C.2011); *G.G. ex rel. Gersten v. D.C.*, 924 F. Supp. 2d 273, 279 (D.D.C. 2013). There are no exceptions to this responsibility to locate and evaluate students. Furthermore, the mandate explicitly includes students who are advancing from grade to grade. 34 C.F.R. § 300.111(c)(1).
[12] D.C. Act 20-486.
[13] D.C. Act 20-486 § 103(1), codified at DC Code § 38-2571.03(1).
[14] D.C. Act 20-486 § 103(5), codified at DC Code § 38-2571.03(5).
[15] D.C. Act 20-486 § 103(3), codified at DC Code § 38-2571.03(3).
[16] D.C. Act 20-487 § 202(b)(a)(3), codified at DC Code § 38-2561.02(a)(3).
[17] 30 C.F.R. § 330.34(a).

for speech therapy.[18] While we understand from the DCPS central office that the checklist is not intended as a policy for determining eligibility, in our experience that is how it has been applied by schools.

We also found that at least one charter school still uses the outdated discrepancy model for determining whether a student qualifies as a student with a learning disability. That model requires a student to show a discrepancy of two years or two standard deviations between a student's ability and achievement scores. Since the IDEA was reauthorized in 2004, LEAs have been encouraged to use, instead, a response to research-based instruction model for determining eligibility as a student with a learning disability. That model asks whether the child is achieving adequately when provided with appropriate instruction, a more flexible approach that is also endorsed by OSSE.[19]

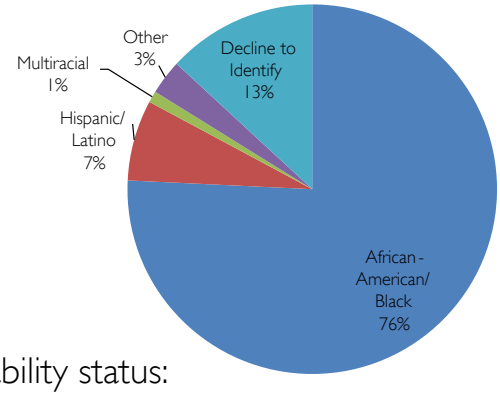
Some of OSSE's policies regarding eligibility for special education are also stricter than federal and local law. In particular, OSSE limits eligibility as a student with an emotional disturbance to students who have not made progress after receiving two scientific research-based interventions.[20] While we do understand the intention to make sure that students are not over-identified as emotionally disturbed, in practice we have seen this requirement delay some students in mental health crisis from receiving the support they desperately need.

B. Discipline

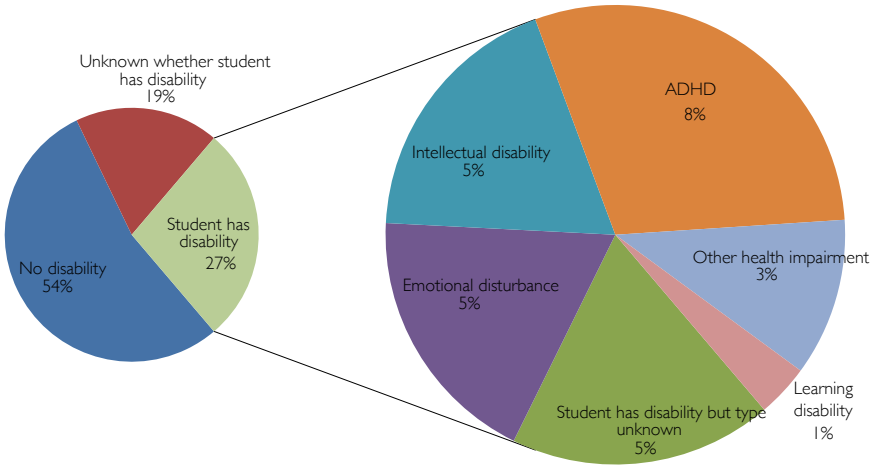
Discipline cases represented our second-largest complaint category. The majority of callers with discipline complaints identified the student's race as African-American. None of the discipline complaints we received self-identified the student's race as white. This data accords with OSSE's data showing that African-American students in DC are nearly six times more likely to be disciplined than white students.[21] (13% of callers with discipline complaints did not identify the race of their students).

Nearly half of the students with discipline complaints were either identified as having a disability (27%) or suspected of having a disability (19%). This corresponds with city-level data showing that students with disabilities are more likely to receive discipline than their non-disabled peers.[22] Moreover, although Chapter 25 requires that hearings for long-term suspensions and expulsions shall occur no more than four school days after a written notice regarding disciplinary action is provided to the parent or adult student, parents have reported administrative hearings

Discipline cases by student race:



Discipline cases by disability status:



[18] Briggs, K. L., State Superintendent of Education. (2010, January 5). *Related services policy.* Retrieved from http://osse.dc.gov/publication/related-services-policy-final-january-5-2010

[19] Briggs, K. L., State Superintendent of Education. (2010, March 22). *Part B initial evaluation/reevaluation policy.* Retrieved from http://osse.dc.gov/publication/part-b-initial-evaluation-and-reevaluation-policy-final-march-22-2010

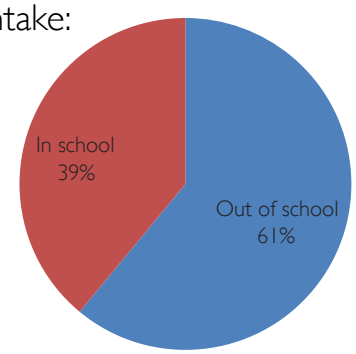
[20] Briggs, K. L., State Superintendent of Education. (2010, March 22). *Part B initial evaluation/reevaluation policy.* Retrieved from http://osse.dc.gov/publication/part-b-initial-evaluation-and-reevaluation-policy-final-march-22-2010

[21] District of Columbia Office of the State Superintendent of Education. (n.d.). *Reducing out-of-school suspensions and expulsions in District of Columbia public and public charter schools.* Retrieved from http://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE_REPORT_DISCIPLINARY_G_PAGES.pdf

[22] District of Columbia Public Schools, District of Columbia Public Charter School Board, & Office of the State Superintendent of Education. (2013). *District of Columbia school equity reports.* Retrieved from http://www.scribd.com/doc/190947805/District-of-Columbia-School-Equity-Reports-2013

that occur well after four school days for DCPS students.[23] This is important to note for the students who have not yet been identified as having a disability and may be out of school through long-term suspensions for longer periods of time.

Suspended students out of school at time of intake:

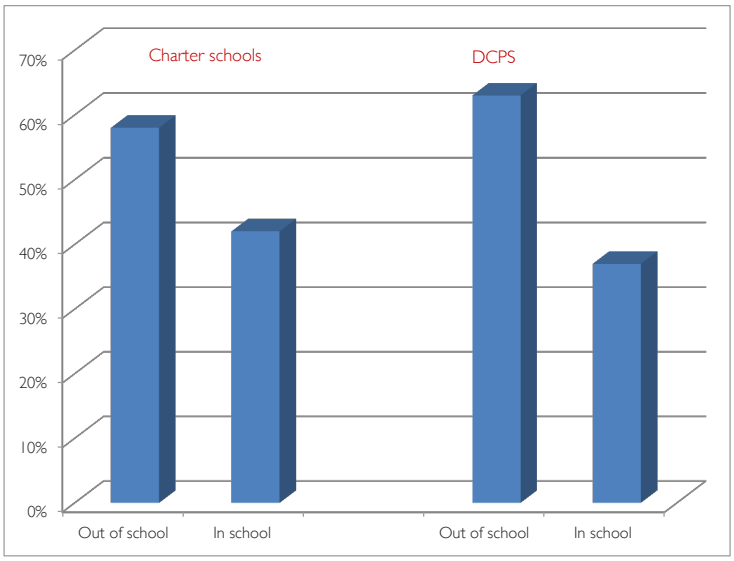


In the majority of the calls we received about suspensions, the student was out of school at the time of the call. Suspended DCPS students were somewhat more likely to be out of school than suspended charter school students. While some of the students who were out of school already had a hearing or other appropriate due process, in a number of cases the students had been put out of school before a hearing even though they did not present a danger to the school environment.

DCPS's discipline code, outlined in Chapter 25 of the DCMR, allows schools to put students out of school before a hearing only if they are contributing to an emergency situation at the school.[24] The goal of this exception is to protect the safety of other students and school staff. In our experience, the exception is very broadly applied by deans of students and school principals, which results in students who do not present a danger to the school community being forced to stay home from school for days or weeks at a time. Because DC has one of the lowest performing school systems in the nation, it is an unacceptable practice to broadly apply the "emergency situation" exception under Chapter 25.[25]

Throughout the year, we have had serious concerns about students and parents not being provided full due process protections when students are proposed for suspension. We received many calls from parents at both charter and DCPS schools who did not receive written notice of proposed discipline. In some cases, our inquiries showed that parents had been told to keep their children home from school without formal suspension paperwork ever being issued. Other DCPS parents reported that they were asked to waive their right to a disciplinary hearing. We have grave concerns about the parent waiver, as in the cases we are aware of school staff did not fully inform parents of the rights they were giving up in signing the waiver. Moreover, some parents who waived their rights to a hearing would have likely obtained a better outcome for their student through the hearing process.

Suspended students out of school, charter vs. DCPS:



In our work, 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 2014. We understand that DCPS will begin distributing the list to schools in early September for inclusion with long-term suspension and involuntary transfer paperwork. We look forward to this new practice going into effect.

We also observed that many students home on suspension were not given the support they needed to keep up with schoolwork. For both DCPS and charter school students, it often took several days or even a week before a student

[23] 5-B DCMR § 2506.2.

[24] 5-B DCMR § 2504.4.

[25] National Center for Education Statistics. (2015, August). *National assessment of educational progress: State Profiles* [Fact sheet]. Retrieved September, 2015, from http://nces.ed.gov/nationsreportcard/states/

received work packets. We were told by a DCPS school that work packets had to be mailed through the DCPS central processing center, which caused a delay of up to a week. To avoid that delay, schools typically ask parents to come to the school to pick up the work packet, but that presents a hardship for many parents who may have issues with transportation or demanding work schedules.

We also found that some students with long-term suspensions did not receive alternative instruction. CHOICE Academy, the DCPS alternative school, does not accept students until they have received a final decision from the Office of Administrative Hearings. This means that students who are put out of their DCPS school before a suspension under emergency situations typically do not receive instruction for a week or more while awaiting a hearing.

Parents are often surprised to learn that even amongst the District's highest-performing charter schools, alternative instruction is not typically provided for students unless mandated by local and federal laws for students in special education programs. While charter schools do not have a legal obligation to offer such services, their choice not to offer such services results in missed learning opportunities.

A number of charter schools overuse school exclusion in the following ways:

- Some charter schools suspend students for uniform violations and for repeated tardiness, both practices that have been forbidden by DCPS. Parents are often surprised by this practice. It is our position that schools should not suspend students for these reasons. Uniform violations and tardiness often result from poverty and family circumstances. Students should not be penalized because their parents cannot afford to buy new uniforms or they must travel a very long distance from their home to attend an out-of-boundary school. Furthermore, uniform violations and tardiness do not present a danger to fellow students or staff and thus suspending students for these reasons unnecessarily deprives students of critical instructional time.
- Some charter schools have zero-tolerance policies that require automatic expulsion for certain behaviors, such as possession of marijuana. These policies run counter to national research and federal school discipline guidance discouraging the use of zero-tolerance policies.[26]

Charter schools use expulsion significantly more often than DCPS. In the most recent year for which we have available city-wide data, charter schools expelled 139 students while DCPS expelled only one student.[27] We appreciate that PCSB is in the process of revising its policy on charter school discipline plans to prevent schools from expelling students for "minor offenses such as possession of tobacco or insubordination."[28] Enacting this policy would be a positive step toward limiting charter school push-out. However, it will still leave charters with the latitude to suspend students for relatively minor violations and impose zero-tolerance policies.

Overall, we find that many schools rely too much on exclusionary discipline and offer too few in-school interventions to encourage positive behavior. In the most recent year for which we have data, 12% of DC public school students were suspended at least once.[29] School exclusion must always be a last resort. As the U.S. Department of Education states, "the widespread overuse of suspensions and expulsions has tremendous costs. Students who are suspended or expelled from school may be unsupervised during daytime hours and cannot benefit from great teaching, positive peer interactions, and adult mentorship offered in class and in school. Suspending students also often fails to help them develop the skills and strategies they need to improve their behavior and avoid future problems. 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."[30]

Some DC schools are implementing promising alternative strategies to encourage positive behavior. This coming year, Ballou High School plans to implement a school-wide restorative justice program. Unlike traditional discipline, restorative justice focuses on repairing the harm done by misbehavior rather than simply punishing a student. DC International School has trained all school staff on the use of restorative practices and uses suspensions as a last resort for discipline, instead focusing on restorative circles and conferences with all affected parties. As a result, DC

[26] Council for Court Excellence School Discipline Project Committee. (2015, March). *Equity in school discipline.* Retrieved from http://www.courtexcellence.org/uploads/publications/Equity_in_School_Discipline_Report___FINAL_31115.pdf

[27] District of Columbia Public Charter School Board. (2014, September 4). SY 2013-14 DC *Public Charter School Discipline and Attendance Briefing.* Retrieved from http://s3.documentcloud.org/documents/1283829/public-charter-school-board-report-on.pdf. DCPS FY14 Performance Oversight Responses Q54

[28] Dammann, K. (2015, August 17). *PCSB policy revisions: Discipline plans*. Retrieved from http://www.livebinders.com/play/play?id=1774741

[29] District of Columbia Public Schools, District of Columbia Public Charter School Board, & Office of the State Superintendent of Education. (2013). *District of Columbia school equity reports*. Retrieved from http://www.scribd.com/doc/190947805/District-of-Columbia-School-Equity-Reports-2013

[30] U.S. Department of Education. (2014, January). *Guiding principles: A resource guide for improving school climate and discipline, ii.* Retrieved from http://www2.ed.gov/policy/gen/ guid/school-discipline/guiding-principles.pdf

International School met its goal of a low suspension rate and no expulsions.[31] Next Step Public Charter School was also able to significantly reduce[32] its suspension rate when it implemented restorative justice as a school-wide model, and several other DC public and charter schools have also embraced the model with the support of OSSE's Restorative Justice Community of Practice. Other schools have adopted trauma-informed practices, including DCPS's implementation of two evidence-based mental health treatments for children who have experienced trauma.[33] These approaches are important steps toward moving the focus from remedying misbehavior to teaching positive behavior. These kind of initiatives help contribute to a positive school climate, which can decrease the likelihood of suspensions and boost academic success.[34] A positive school climate, according to Arne Duncan, U.S. Secretary of Education, "not only minimize[s] unnecessary suspensions and expulsions, but also reduce[s] disorder in the classroom and bolster[s] learning."[35]

C. Safety/Abuse

Student safety/abuse was the third most common complaint category. Most of the complaints included under this category alleged physical abuse; a smaller number alleged verbal abuse or lack of supervision. Some of the physical abuse allegations were quite serious, including a student allegedly thrown down stairs and a student allegedly picked up and slammed against a wall. In some cases, the alleged physical abuse occurred when a staff member was attempting to restrain a student during a fight.

Our role in safety/abuse cases focused on 1) ensuring that the school had a plan to keep the student safe going forward; and 2) ensuring that the school followed its LEA's procedures for investigating such incidents. Because we did not conduct the investigations ourselves, we were not able to track how many of the allegations were supported by evidence.

We did, however, observe that the lack of transparency about how schools investigate abuse allegations often inflamed parents' fears and led to a breakdown in their trust in the school. In abuse cases, schools must balance privacy about personnel matters with accountability to parents. Nearly all parents who called our office wanted to know how the staff member in question had been disciplined, information that cannot be given to parents. However, parents could be provided with other information to allay their concerns, most importantly 1) a written summary of the actions they can expect the school and the police to take to investigate an incident and 2) a report of the outcome of the investigation. Through our work, we learned that DCPS's and MPD's policies on investigating allegations of physical abuse (which they term corporal punishment as per DC regulations[36]) are difficult to understand and many years out of date. There is no user-friendly summary of the steps that the two agencies take to address corporal punishment allegations. We strongly recommend that DCPS and MPD collaborate to develop a short and clear summary of what parents should expect. In particular, many parents wanted more information about whether their children would be interviewed by MPD and/or DCPS, whether parents would be informed before interviews or allowed to participate in them, and what steps DCPS would take if MPD decided not to bring criminal charges in a given case.

We also received complaints about corporal punishment from charter school families, though not as commonly as from DCPS families. In our work, we found a similar need for some charter schools to clarify their policies for investigating corporal punishment allegations.

D. Bullying

Bullying was another top complaint topic, comprising 8% of the complaints we received. We received bullying complaints from both DCPS and charter school parents, though DCPS students were slightly overrepresented. We received bullying complaints for all grades from 1st through 12th, with the highest representation at 3rd, 4th, and 8th grades.

Typically, our role in bullying cases focused on facilitating problem-solving discussions between parents and schools. In many cases, we worked in partnership with the Office for Human Rights' (OHR) Director of the Citywide Youth Bullying

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[31] Rodberg, S. (2015, July 23 and September 9). [Telephone interview and email]. Principal, DC International

[32] Martinez, A. (2015, August 31). [Email correspondence]. Principal, Next Step Public Charter School.

[33] Children's Law Center. (2015, June). *Addressing childhood trauma in DC schools,* 3. Retrieved from http://www.childrenslawcenter.org/sites/default/files/CLC%20--%20Addressing%20Childhood%20Trauma%20in%20DC%20Schools--June%202015.pdf

[34] Duncan, A. (Presenter). (2014, January 8). *Rethinking school discipline* [Transcript]. Speech presented at The Release of the Joint DOJ-ED School Discipline Guidance Package at The Academies at Frederick Douglass High School, Baltimore, MD. Retrieved from http://www.ed.gov/news/speeches/rethinking-school-discipline

[35] Duncan, A. (Presenter). (2014, January 8).

[36] 5-E DCMR § 2403.1 defines "corporal punishment" as "the use, or attempted use, of physical force upon, or against, a student, either intentionally or with reckless disregard for the student's safety, as a punishment, or discipline." Prohibited conduct includes "(a) Shoving; (b) Striking; (c) Grabbing; (d) Shaking; (e) Hitting; (f) Throwing of objects; and (g) Unreasonable restraint [and] (h) Directing others to inflict any of the above on a student."5-E DCMR § 2403.5.

Prevention Program to address parents' complaints before the situation escalated to a point where the parents filed a formal complaint with OHR.

In many cases, we found that schools had not documented alleged bullying incidents even though the Youth Bullying Prevention Act[37] requires them to do so. At times, this was the result of a difference of perspective about whether a particular incident truly met the definition of bullying.[38] It is understandable that schools may struggle to complete required paperwork in all instances, but it is imperative that they do so. When incidents are not documented, parents lose faith in the school's investigative process. Even more importantly, schools may miss the opportunity to intervene in truly problematic situations simply because one staffer made an incorrect assumption that the allegation was not justified. Finally, the lack of documentation may prevent schools from identifying a pattern of bullying at their schools.

We found that few schools were implementing, with fidelity, school-wide curricula to prevent bullying and improve school climate. While compliance with the Youth Bullying Prevention Act is an unfunded mandate, prevention-focused interventions are essential to ensure that all students feel safe and valued at school.

E. Enrollment

Parents' complaints about enrollment typically centered on either lack of information about their school options or misinformation from school staff about enrollment requirements. MySchoolDC's user-friendly website and informative hotline resolved many parents' concerns. The newly created Office of the Student Advocate, housed within the DC State Board of Education, is also an important resource for families in identifying school options for their children. However, we found that parents still need a centralized resource that provides more information about schools' specific programs such as special education offerings, class sizes, teacher-student ratios, and instructional methods than can be found on MySchoolDC, LearnDC, or the other available websites.

Homeless parents often called us with complaints that school registrars had wrongly told them they had to provide proof of address and other documents that are not required for homeless students. When our office intervened, we were able to enlist the help of other DC government agencies such as the OSSE and DCPS homeless youth programs. These offices were able to resolve most of these problems quickly. Nonetheless, the continuing complaints point to a need for additional training on the school level on how to handle homeless students and overall enrollment requirements.

F. Family Engagement

A recurring theme in the complaints we received was that parents did not feel that school officials respected them or communicated openly with them. We understand that school staff have many responsibilities and may not have as much time as they would like to cultivate relationships with each parent. Nevertheless, we found that parents often develop much more meaningful relationships with school staff when staff take the time to listen to parents' concerns in detail, answer their questions, and make sure to follow through on any promises made.

Another hurdle parents described to our office was a lack of awareness about policy differences between charter schools and DCPS. It is our position that simply putting the policies in the school's handbook is not enough to ensure that parents understand school expectations and requirements. For example, we found that some charter schools provided fewer due process protections when barring parents than DCPS. Such limited due process protections for barred parents are troubling and should, at the very least, be clearly communicated to prospective parents so that parents can make informed decisions in selecting schools.

It can be difficult for parents to get involved if they do not know how. In a 2013 study by MDRC, a nonprofit, nonpartisan education and social policy research organization, researchers recommended that "schools and teachers need to take an active role in engaging all families….and be intentional about including families as an integral part of their school, because parents may not know exactly how or when to engage."[39]

However, in our experience, schools sometimes struggle to integrate families into discussions about their child's

[37] D.C. Act 19-384, codified at DC Code § 2.1535.01 et seq.

[38] For an incident to be considered bullying under the Bullying Prevention Act's definition, the student must have a reasonable fear of physical harm to his or her person or property, experience a substantial detriment to his or her physical or mental health, or experience substantial interference with his or her academic performance or attendance as a result of the alleged bullying.

[39] Van Voorhis, F., Maier, M., Epstein, J., Lloyd, C. (2013, October). A focus on literacy and math achievement outcomes and social emotional skills, ES-4. Retrieved from http://www.mdrc.org/sites/default/files/The_Impact_of_Family_Involvement_FR.pdf

education and on issues of discipline or truancy. For instance, parents often receive a call from CFSA after their school has reported that their child has had multiple absences but do not recall having any conversations about their child's attendance with the school prior to this call. Parents in these cases feel as though the school does not respect them. Effective family engagement can head off many of the complaints we receive by incorporating parents early in the process, before issues arise.

Margaret Caspe in her 2015 article, Lessons from Blended Professional Learning, citing 2011 research from Harris Interactive,[40] stressed the importance of professional development incorporating family engagement skills for children's academic success, families' well-being, schools' performance, and teachers' job satisfaction.[41] Initiatives in DC Public Schools and OSSE demonstrated the positive impact of focusing on parent engagement, supporting results of recent studies. For example, the Flamboyan Foundation's descriptive 2014 DCPS study found a correlation between participation in the Flamboyan initiative, which included structured parent-teacher conferences and home visits, and higher average DC CAS scores in Flamboyan classrooms than in the non-Flamboyan classrooms.[42]

Effective family engagement should also happen beyond the school level. We heard from a number of parents that they would like to be more involved in developing policies at the LEA-level. DC agencies often struggle to have meaningful parent engagement in policy development, yet there is clearly a desire on the part of many parents to contribute to policy discussions. While some avenues are already available to parents, including the DCPS Chancellor's Parent Cabinet, PCSB's Community Advisory Group,[43] and OSSE's State Advisory Panel for special education, each of these groups only includes a relatively small number of parents and requires participants to commit to regular participation. Additional opportunities are needed for more parents to contribute to policy-making in more flexible ways. We are hopeful that the new Office of the Student Advocate will also be helpful in connecting interested parents to policymakers.

[40] Harris Interactive. (2012, March). *The MetLife survey of the American teacher: Teachers, parents and the economy*. Retrieved from http://files.eric.ed.gov/fulltext/ED530021.pdf

[41] Caspe, Margaret (2015, August). Lessons from blended professional learning: The case of family engagement. *Family Involvement Network of Educators (FINE) Newsletter*, 7(3). Retrieved from http://www.hfrp.org/publications-resources/browse-our-publications/lessons-from-blended-professional-learning-the-case-of-family-engagement

[42] Lalley, T. (2015, August 27 and 31). [Telephone interview by the author]. Chief Communications Officer, Flamboyan Foundation. See also: Sheldon, S., & Hutchins, D. (2014). *The D.C. family engagement partnership: Findings from a descriptive evaluation executive summary*. Retrieved from http://osse.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/FEPPhase1EvaluationExecutiveSummary2014_0.pdf

[43] We understand PCSB is in the process of restructuring this group. Bowden, T. (2013, June 24). *PCSB policy revisions: Parent and alumni leadership.* Retrieved from http://www.livebinders.com/play/play?id=1774741

Section VII. 2015 Annual Recommendations

Discipline

Discipline responses should focus on keeping students in school.

- Schools should implement evidence-based school-wide interventions that include promising models such as restorative justice and trauma-informed strategies to keep students in school.
- Charter schools should not use zero-tolerance policies or suspend students for uniform violations or tardiness.
- Charter schools should review their expulsion policies and use expulsions as a last resort, after all other interventions have been exhausted.
- DCPS should minimize the use of the "emergency situation" exception in Chapter 25.

If students have to be removed from school, they should be given support to keep up with their classes.

- Schools should provide work packets in a timely manner for short suspensions.
- All charter schools should provide alternative settings for students with suspensions over 10 days.

Students' due process rights should be fully protected.

- Schools should provide timely written notice for all forms of out of school placement, and DCPS should takes steps to make sure that schools are providing written notice to parents.
- DCPS schools should discontinue the practice of asking parents to waive their right to a disciplinary hearing.
- Schools should provide parents with a current list of legal services providers when they suspend or expel students.
- OSSE should publish state-level discipline regulations that provide a basic floor of due process protections.

Special Education

Parents should be engaged as equal partners in making decisions about their children's education.

- Parents and students must always be given the opportunity to visit proposed new classrooms or school locations.
- When parents make oral requests for evaluation, the schools must treat those as formal requests that trigger the evaluation timeline.
- Parents must receive copies of all relevant documentation before any IEP meetings.[43]

Students in special education should be able to fully access their education.

- DCPS should shorten the time the Student Placement Office takes for new students with IEPs to get placed in school.
- Charter schools should not force students to have shortened school days when they have behavior problems.
- LEAs must not use eligibility policies, whether for special education generally or for specific services, that are stricter than what local and federal law allows.
- OSSE and the LEAs must train their staff on common mistakes in special education such as assuming that a student who is academically gifted cannot be eligible for special education.

Student Safety

- DCPS and MPD should clarify their policies about investigating allegations of corporal punishment and make those policies easily accessible.
- All schools should implement curricula designed to prevent bullying and improve school climate.
- Schools should document and investigate all allegations of bullying.

[43] As provided by recently-passed legislation, the Special Education Student Rights Act of 2014.

Homeless Students

All schools should train their front office staff to avoid common mistakes in enrolling homeless families such as requiring them to provide proof of address or records from past schools. These common mistakes violate the federal McKinney-Vento Act[44] and deprive homeless students of access to education.

Engagement

Parents should be able to easily access a wide range of information about DC schools.

- Charter schools' unique policies should be highlighted for parents, as we often see parents who did not know that charter schools' discipline and other policies can vary widely from DCPS' policies.
- Detailed information about all public schools should be made available in a centralized and easy to use website, possibly through an expansion of MySchoolDC or LearnDC. The information should include schools' policies, academic programs, and special education offerings.
- School staff should treat parents with respect and communicate with them regularly and openly.
- Schools should continue to identify opportunities for parents to be involved in meaningful policy development.
- Parents should be barred from schools as sparingly as possible.
- PCSB should give charter schools guidance about appropriate barring policies and review those policies in their charter approval process and 5 and 10 year reviews.

[44] 44 U.S.C. § 11431 et seq.

Section VIII. Conclusion – Looking Ahead

In our second year of operation, we have been honored to help nearly 500 families reach resolution in their individual cases. We have also had the opportunity to help parent groups and schools solve problems and resolve conflicts. We have increased our outreach steadily, and plan to continue that effort in the coming year. Our goal is for all DC public school parents 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 year!

Appendix

Work Summary for School Year 2014-2015

Complaints received
[three times as many as the previous year]
469 complaints through July 31, 2015

Complaints examined and resolved informally: 88% of the total number of all cases
[informal mediations, meeting facilitations, etc.]
415 cases

Complaints examined and resolved through a formal process
0%

Complaints dismissed as "unfounded"
24 cases (5%)

Complaints pending as of August 1, 2015
16 additional cases were pending as of August 1, 2015

Recommendations made
[to see recommendations made to schools, see the "Representative Accomplishment" section on Page 15]
29 cases (6%)

Recommendations that were followed, to the extent that it can be determined
21 cases (72% of recommendations)

The Ombudsman was magnificent. It took a long time and she kept following up. She did follow up on calls. She connected me with people who could help me. She gave me a call back just as promised. I meant to give her a thank you card.

- Grandmother of an elementary school student seeking to enroll her grandson in school.

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441 4th St, NW, Suite 723N | Washington, DC 20001 | 202.741.0886 | Ombudsman@dc.gov | @DCOmbuds