

Transparency, Accountability, and Fiscal Responsibility for Publicly Funded Charter Schools in DC

The Council is considering legislation to strengthen fiscal transparency for charter schools. See Public Charter School Fiscal Transparency Amendment of 2015, [B21-0115](#).

We share the view that it is important to strengthen such transparency and welcome the introduction of B21-0115. We urge, however, that as the Council considers the modest strengthening to transparency outlined in B21-0115 that it consider other important measures either employed in other jurisdictions or recommended by national experts.

The recent report by the Annenberg Institute – Public Accountability for Public Charter Schools, Standards and Policy Recommendations for Effective Oversight, see [here](#), offers useful background for the kinds of things we believe should be included in eventual legislation on this important subject.

As the sponsors of B21-0115 recognize, the need to strengthen transparency for charter schools is particularly acute now. The District is in the midst of a monumental investment in schools, investing \$1.4 billion per year or 1 in 5 of our locally raised tax dollars on the operation of our traditional DC Public Schools (DCPS) and publicly-funded independent charter schools, and hundreds of millions of dollars a year on school capital investments.

Enrollments are growing, see [here](#), and will continue to grow with significant increases in school age populations anticipated. See [here](#) at page 6. In the meantime, the charter sector has grown from serving zero pre-1995 to over 37,684 students (or approximately 44% of the public school students in the District) in the 2014-15 school year. See [here](#).

As our spending on publicly funded charter schools approaches \$700 million per year, (see [here](#) and [here](#)), and we crest over providing support for over \$500 million in charter school borrowing through revenue bonds (see [here](#)), fiscal transparency is critical. Yet, there is limited oversight on how use their public dollars to meet the needs of their students and access to data from charter schools remains a challenge. And, there are ongoing, effective efforts to deflect increased transparency or regulation of charter schools. See [here](#). In the meantime, there have been recent high profile cases of charter operators abusing public funds and the public trust.

- Options Public Charter School officials were accused of diverting millions of dollars to insider private management companies and contractors. The Complaint was eventually amended to suggest that a Public Charter School Board staff person assisted in the scheme. See [here](#).
- The founder of Community Academy PCS and his management company recently settled a claim that he diverted millions of dollars for his personal gain, agreeing to pay \$3,000,000. See [here](#).

In addition to the critical issues relating to reliance on and lack of transparency relating to management companies, the recently issued DC Fiscal Policy Institute (“DCFPI”) report “A Look At DC Public Charter School Finances: Revenue And Spending Per Student,” see [here](#), outlined additional areas that could benefit from increased transparency.

Current law provides that public charter schools shall participate in the longitudinal education data warehouse system established by the Office of the State Superintendent of Education and shall provide data to the OSSE upon request, see [DC Code Section 38-1802.04\(c\)\(19\)](#). However, as the recent National Academies of Sciences report: “An Evaluation of the Public Schools of the District of Columbia: Reform in a Changing Landscape,” see [here](#), makes abundantly clear, that data warehouse has yet to be created and the lack of access to data and information, is a significant impediment to fully and efficiently serving our students, families and communities. See [here](#).

In this context, it is quite positive that we are commencing a discussion before the Council regarding transparency for charter schools. We can and should use this moment to significantly and meaningfully advance transparency for charter schools.

The Challenge

One might expect that publicly funded charter schools would be subject to the same transparency and ethics obligations as DCPS and other District agencies. Current law, however, specifies that public charter schools are organized, not as public bodies, but as non-profits, see [DC Code Section 38-1802.04\(c\)\(16\)](#). Current law also provides that while the “District of Columbia Government” includes any agency or public nonprofit that has the authority to receive moneys directly or indirectly from the District of Columbia, there is an exception carving out public charter schools, see [DC Code Section 38-1800.02\(10\)](#), and provides that public charter schools are not “District of Columbia public schools” see [DC Code Section 38-1800.02\(12\)](#).

The net effect of these exceptions is not only to allow for increased independence but also to significantly limit transparency and accountability. Unlike DCPS and other District departments and agencies, public charter schools are:

- Not subject to audits by DC Auditor;
- Not subject to DC open meeting laws;
- Not subject to DC Freedom of Information Act requirements;
- Subject to limited oversight over procurement practices; and
- Employ outside private management companies and contractors who receive substantial public dollars and are not subject to oversight.

Common sense standards of fiscal responsibility require that public charter schools be subject to the same standards of transparency and ethical obligations as other public agencies—most of which manage far fewer DC taxpayer dollars.

Charter advocates contend that the Public Charter School Board (“PCSB”) exercises adequate oversight and, if any changes should be made, they should be limited to enhancing the powers of the PCSB. Indeed, B21-0115 as drafted accepts the rubric of sole oversight managed by the PCSB and transparency and ethical obligations flowing exclusively to the PCSB, and seeks modestly to enhance PCSB powers to reach certain management companies and create rules to allow and govern conflict transactions. However, as authorizer, PCSB is not the appropriate sole locus of charter school oversight responsibility. It is important that some oversight functions be housed in organizations that are independent of the entities to be overseen.

To create real transparency, it is imperative that we break out of the paradigm under which we exempt bodies that are provided nearly 1 in 10 of our tax dollars from the requirements relating to transparency and ethics for public bodies.

Proposals to Enhance B21-0115

Rather than create a safe harbor for conflict transactions as currently contemplated by Section 2(a) of the B21-0115, require that the same obligations relating to conflict transactions applied to other stewards of District tax dollars apply to public charter schools. There is nothing about the operation of public charter schools that justifies subjecting them to different ethical obligations. Holding them to the same ethical obligations cannot be said to impinge upon their independence in a negative way.

Rather than simply authorizing the PCSB to have access to records for certain management corporations as outlined in Section 2(b), require full transparency for such records in the manner that would be required for any government expenditures.

Use the opportunity presented by this legislation generally to improve transparency for charter school expenditures building on the recommendations in the recent DCFPI report.

Use the opportunity to strengthen other reporting requirements to begin to address issues raised in the recent National Academy of Sciences report.

Each of these goals can be achieved by applying the same DC ethical and fiscal code provisions to public charter schools that apply to other District agencies, including DCPS and the PCSB, and by strengthening certain key reporting requirements.

Thus, we urge that any charter transparency legislation specify that:

- The DC Auditor may audit a public charter school.
- The DC Freedom of Information Act, see [here](#), applies to public charter schools.
- The DC Ethics Act, see [here](#), applies to public charter schools.
- The Open Meetings law, see [here](#), applies to public charter schools.
- Both DCPS and public charter schools utilize a common framework for budget reporting either defined by OSSE or the Council and that public charter schools more precisely account for how their facilities allotments are spent. This

framework should allow for comparison between school budgets across sectors, including specific budget categories for school leadership, personnel, capital, and direct programs.

- The data warehouse called for in the School Reform Act of 1995 be created by September 30, 2016 and that both DCPS and public charter schools must provide all data requested for that data warehouse.

Charter LEAs' autonomy over how they organize schools – the strategies and methods used to educate children – would be preserved and enhanced to the extent that the public is assured of ethical conduct and financial accountability in the management of public funds. Transparency is a fundamental requirement both to safeguard public funds and to strengthen public confidence in our public institutions, including public charter schools.

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