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Testimony of the Education Law Center Philadelphia School Board Student Achievement & Support Committee

November 8, 2018

My name is Reynelle Brown Staley, and I am here today in my capacity as Policy Attorney at Education Law Center. ELC is neither pro-charter nor anti-charter, but we are pro-public education. Our mission is to ensure that all children have access to quality public education. Our focus (here today) is not on the governance structure of public schools but on the students who attend them. We recognize that charter schools are legally a part of our current educational landscape, and we advocate to ensure that all charter schools are equitably and adequately serving the needs of our students.

Based on PSSA scores and other measures, a number of charter schools perform better than district schools, and many are failing academically.¹ Yet the “reputational” performance of charters often conflicts with the lived experience of the families who call our HelpLine. Their calls raise concerns about many of the “high-performing” charters and whether they are actually promoting achievement for all students. We urge you to consider their concerns that discrimination and segregation, rather than innovation, may better explain certain charters’ performance.

Consider the case of our client, Pamela James, a Black grandmother caring for her grandchild with a disability.² Her granddaughter had her acceptance to Franklin Towne Charter High School rescinded this year as soon as the school received a copy of the girl’s IEP. Ms. James’s story is but one example of a phenomenon borne out by data: Philadelphia charters serve a lower percentage of students with disabilities than the district as a whole, particularly students whose disabilities require higher-cost services.³ A U.S. Department of Education report confirmed that many charter schools systematically and illegally “counsel out” students with disabilities rather

¹ SCHOOL DISTRICT OF PHILADELPHIA, *Annual Charter Evaluations*, <https://www.philasd.org/charterschools/evaluation/> (navigate to Annual Charter Evaluations, which are listed by school).

² Greg Windle, *Franklin Towne Accused of Discriminating Against Special Needs Student*, THE NOTEBOOK, July 19, 2018, available at <https://thenotebook.org/articles/2018/07/19/franklin-towne-accused-of-discriminating-against-special-needs-student/>.

³ Alex M. Dutton, et al., *Inequities in Pennsylvania’s Charter Sector: Segregation by Disability*, EDUCATION LAW CENTER (February 2017), available at <https://www.elc-pa.org/wp-content/uploads/2017/02/ELC-Analysis-Inequities-in-PA-Charter-Schools-Segregation-by-Disability.pdf>.

than making accommodations and providing the required services and supports.⁴ Students of color are also counseled out of charters through the overuse of suspensions⁵ plus codes of conduct and informal removal processes that fail to observe and inform families of their legal rights.⁶

As the authorizing body for the District's charter schools, the school board has the power to advance racial equity and educational justice each time you decide whether to approve or renew a charter. (See Appendix A.) You will vote on charters that operate in largely white neighborhoods, like Bridesburg, Frankford and Upper Roxborough, and that serve few students who are of color, in poverty, learning English, or with disabilities. (See Appendix B.) You will vote on charters that screen applicants based on parental support, disciplinary history, English proficiency or special needs – factors that often proxy for race, class, and disability. You will vote on many 37 existing charters that perform at or below the district average in both math and ELA PSSA scores. And in the process, you decide whether to allow charters to contribute to educational segregation and stratify students based on race, class, and ability. Given the absence of state charter reimbursement funding and the growth of the District's stranded costs, you also decide whether to create a system of more schools, less money and limited, if any, academic gains, for schoolchildren in Philadelphia.

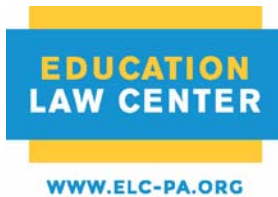
As lawyers, we recognize that each charter authorization decision that this board makes involves legal risk. Yet that risk does not allow you to abdicate your legal responsibility under the Charter Law and civil rights laws to ensure that all Philadelphia schoolchildren can learn free from discrimination. We look forward to continuing to partner with you and to ensure that all Philadelphia schoolchildren have access to a quality public education. Thank you.

⁴ THOMAS A. FIORE, LESSLEY M. HARWELL, JOSE BLACKORBY, KARA S. FINNIGAN. CHARTER SCHOOLS AND STUDENTS WITH DISABILITIES: A NATIONAL STUDY (2000), available at <https://files.eric.ed.gov/fulltext/ED452657.pdf>. The report, commissioned by the U.S. Department of Education, found that administrators at a quarter of charter schools reported advising parents that the school was not a good fit for their child with disabilities.

⁵ Annual Charter Evaluation data reports charter school suspension rates at 12% and district school suspension rates at 9% for the 2016-17 school year. SCHOOL DISTRICT OF PHILADELPHIA, *Annual Charter Evaluations*, <https://www.philasd.org/charterschools/evaluation/> (navigate to Annual Charter Evaluations, which are listed by school, and Out-of-School Suspensions in any report).

⁶ Annual Charter Evaluation data identifies charters schools that, for example, do not articulate the formal due process right to appeal the results of the hearing or student due process rights for informal hearings.

Appendix A



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February 15, 2018

To the members of the School Reform Commission,

The Education Law Center is a nonprofit legal advocacy organization dedicated to ensuring that *all* Pennsylvania's children have access to quality public education. For over 40 years, ELC has successfully advocated on behalf of students historically underserved by public education, including students in poverty, students of color, LGBT students, students involved in the juvenile justice and foster care systems, English learners, students with disabilities, pregnant and parenting teens, and students experiencing homelessness.

Much of our advocacy for underserved students has focused on the School District of Philadelphia. We write today to address concerns about Philadelphia's charter school sector, which is easily the second largest constellation of schools in the state, serving more than 70,000 students. Specifically, we want to bring attention to continued serious concerns about universal access and equity in Philadelphia's charter sector.

Our analysis of issues of access and equity has been aided by the publication in 2016 and 2017 of the Annual Charter Evaluations (ACEs) produced by the Charter School Office. These evaluations provide important information for ensuring accountability of charter schools – ensuring that the city's most vulnerable students can access a high-quality education.

Notably, the legislative intent of Pennsylvania's charter school law was to create and improve public school options for all pupils, including students living in poverty, children with disabilities, English learners, and other vulnerable student populations. However, analysis of the ACEs data reveals that many Philadelphia charter schools are excluding rather than serving our vulnerable students.

Here are some examples of the alarming data about charter schools that we saw in last year's ACEs:

- With charters open to students from outside their immediate neighborhood and admitting by lotteries that are supposed to be non-discriminatory, we should expect charters to reflect the diversity of the city's student population, at least to some degree. The District's student population is more than 10 percent English learners. But the data show that it is still common for charters to have minuscule populations of English learners. ***Half of the charter schools that were evaluated in the ACEs had an English learner population of 1 percent or less.***

- A surprising proportion of Philadelphia charters have small percentages of low-income students. The median Philadelphia District school has a low-income population approaching 80 percent. However, ***five out of 50 charters that were evaluated had a population where less than 1/3 of the students were low-income.*** Among District schools, there were only five such schools in the entire city – five out of 220. The ACEs data on poverty comport with the data in a [2014 report](#) by PolicyLab, reflecting that the traditional public schools in the School District of

Ensuring that all of Pennsylvania's children have equal access to a quality public education.

Philadelphia serve much greater concentrations of students in “deep” poverty as compared to Philadelphia’s charter sector.

- High suspension rates and disproportionality in discipline, issues that we have raised about District schools, are prevalent in Philadelphia's charter sector. ***Nearly half of the charter schools evaluated (24 schools) had a suspension rate for Black students of greater than 10%, although not one charter schools had a suspension rate for White or Asian students of greater than 10%. Nearly half of the schools (24 of 50) evaluated had a special education suspension rate of greater than 10%.***

We [have learned from statewide data](#) that the charter sector educates disproportionately fewer of the students with disabilities who require higher cost aids and services – e.g. students with intellectual disabilities, serious emotional disturbance, autism, and multiple disabilities. Instead, the charter sector serves students with disabilities who require lower cost aids and services, such as speech and language impairment and specific learning disabilities. An overwhelming and disproportionate number – 50.6% – of Philadelphia’s students with speech or language impairment attend charters.

With a new set of ACEs forthcoming next month, findings like these serve as a red flag suggesting that schools in the charter sector need heightened scrutiny on issues of access and equity. Much attention has been rightly focused on the financial drain that charters place on the School District; it is just as important that we ensure that charters are not shirking the task of educating student populations that are traditionally underserved and marginalized. Our findings don’t surprise us: Our organization receives a steady flow of complaints from students and families who are being harmed by charter enrollment, discipline, and educational practices.

These concerns are a central reason that the School District needs to maintain a strong Charter School Office. For many years, Philadelphia had weak charter oversight. A 2010 audit by the city controller found "a complete and total failure on the part of the Charter School Office to monitor charter schools and hold these schools accountable for how they spend taxpayers' dollars." But that has changed: the kinds of evaluations that the office has generated over the past two years are a vital step toward complying with the law and ensuring nondiscriminatory access and equity in educational opportunity.

The SRC and District leaders should build on these strengths in the charter office, continue to strengthen oversight, root out discrimination, and resist calls to water down or diffuse accountability for charters.

Thank you.

Sincerely,

Reynelle Brown Staley
Policy Attorney, Education Law Center

Appendix B

2017 Annual Charter Evaluations with Neighborhood and Zip Code

School	Neighborhood	Zip Code	Math PSSA Difference	ELA PSSA Difference	Black Stds	Asian Stds	Latin(x) Stds	Multiracial Stds	White Stds	Economically Disadvantaged Stds	ELL Students	Special Ed
Ad Prima Charter School	Overbrook	19134	-1	18	77%	1%	11%	8%	3%	56%	4.2%	13%
Alliance For Progress Charter School	Cecil B Moore	19121	2	17	95%	0%	2%	3%	0%	78%	0.0%	15%
Antonia Pantolva Charter School	Hunting Park	19140	8	13	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Architecture and Design Charter School	Society Hill	19106	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Aspira Charter School at Olney	Olney	19120	DNR	DNR	33%	4%	60%	2%	1%	72%	25.6%	26%
Aspia Charter School at Seison	St. Hugh	19134	-16	-23	14%	0%	80%	4%	2%	86%	23.8%	21%
Belmont Charter School	Belmont	19104	-12	-12	92%	1%	3%	4%	1%	89%	0.1%	22%
Boys Latin of Philadelphia Charter School	Cobbs Creek	19143	-13	-11	96%	0%	1%	2%	0%	52%	0.0%	12%
Christopher Columbus Charter School	South Philadelphia	19147	14	38	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Community Academy of Philadelphia Charter School	Juniaia Park	19124	-10	1	15%	3%	71%	10%	1%	68%	7.2%	22%
Deep Roots Charter School	Overbrook	19131	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Discovery Charter School	East Parkside	19131	1	12	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Eastern University Academy Charter School	East Falls	19087	-18	-16	91%	0%	2%	6%	1%	67%	0.0%	21%
Esperanza Academy Charter School	Hunting Park	19140	-12	-9	40%	0%	93%	2%	1%	75%	22.8%	18%
Eugenio Maria De Hostos Charter School	Melrose Park Gardens	19120	15	18	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
First Philadelphia Preparatory Charter School	Bridesburg	19124	-8	2	45%	2%	25%	12%	15%	70%	3.4%	21%
Folks Arts Culture Treasures Charter School	Callowhill/ Chinatown	19123	43	31	15%	69%	5%	7%	4%	63%	13.6%	16%
Franklin Towne Charter Elementary School	Bridesburg	19137	37	34	4%	1%	6%	6%	83%	33%	0.9%	13%
Franklin Towne Charter High School	Frankford	19137	DNR	DNR	8%	2%	16%	3%	70%	40%	0.6%	12%
Frederick Douglass Mastery Charter School	North Central	19121	-13	-12	94%	0%	1%	5%	1%	84%	0.3%	25%
Feire Charter School	Rittenhouse	19103	-1	7	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
General David B. Birney Charter School	Logan	19141	-14	-11	88%	3%	4%	5%	0%	82%	2.9%	15%
Global Leadership Academy at Huey Charter School	Cobbs Creek	19131	-19	-22	93%	0%	1%	6%	0%	80%	0.0%	16%
Global Leadership Academy Charter School	Cathedral Park	19143	-11	3	95%	0%	0%	5%	0%	58%	0.0%	13%
Green Woods Charter School	Upper Roxborough	19128	33	42	17%	2%	3%	8%	70%	17%	0.0%	10%
Harambee Institute of Science and Technology Charter School	Overbrook	19151	-15	-2	100%	0%	0%	0%	0%	66%	0.0%	12%
Imhovep Insitute Charter High School	Ogontz	19138	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Independence Charter School	Rittenhouse	19146	25	29	40%	5%	19%	12%	24%	37%	5.1%	14%
Independence Charter School West	Kingsessing	19143	-13	-1	85%	0%	2%	8%	5%	77%	1.3%	13%
Inquiry Charter School	East Parkside	19104	DNR	DNR	93%	0%	0%	6%	2%	72%	0.0%	29%
Keystone Academy Charter School	Tacony	19135	9	31	34%	6%	22%	9%	29%	34%	2.4%	14%
Khepera Charter School	East Toga	19140	-18	-19	85%	0%	1%	14%	0%	77%	0.0%	18%
KIPP Dubois Charter School	West Parkside	19131	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
KIPP North Philadelphia Academy	North Philadelphia	19132	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
KIPP Philadelphia Charter School	West Fairhill	19132	3	0	92%	0%	3%	5%	1%	67%	0.1%	27%
KIPP West Philadelphia Charter School	Kingsessing	19131	DNR	DNR	99%	0%	0%	1%	0%	58%	0%	19%
KIPP West Philadelphia Preparatory Charter School	Kingsessing	19143	-8	-2	95%	0%	0%	4%	0%	57%	0.3%	16%
Laboratory Charter School of Communication and Languages	Overbrook	19131	15	36	88%	3%	3%	6%	1%	52%	1.3%	7%
Mariana Braocelli Academy Charter School	Kensington	19124	-4	-6	15%	0%	72%	8%	4%	80%	9.3%	20%
Maritime Academy Charter School (MACHS)	Bridesburg	19137	8	14	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
MAST Community Charter School II	Lawncrest	19111	22	29	24%	11%	15%	9%	41%	42%	7.6%	13%
Mastery Charter School at Cleveland	Toga	19140	-7	-4	90%	0%	4%	6%	0%	69%	0.8%	20%
Mastery Charter School at Clymer	West Fairhill	19133	-9	-2	81%	0%	8%	9%	2%	89%	3.0%	25%
Mastery Charter School at Gratz	Toga	19140	-6	-3	92%	0%	4%	3%	1%	78%	0.6%	34%

2017 Annual Charter Evaluations with Neighborhood and Zip Code

School	Neighborhood	Zip Code	Math PSSA Difference	ELA PSSA Difference	Black Stds	Asian Stds	Latin(x) Stds	Multiracial Stds	White Stds	Economically Disadvantaged Stds	ELL Students	Special Ed
Mastery Charter School at Harcy Williams	Kingsessing	19143	-7	3	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Mastery Charter School at Harry	Cobbs Creek	19143	-2	7	93%	0%	1%	6%	0%	65%	1.5%	24%
Mastery Charter School at Lemfest Campus	Old City	19106	-10	3	82%	1%	10%	4%	4%	68%	4.0%	28%
Mastery Charter School at Mann	Wynnefield	19131	14	14	92%	1%	1%	5%	1%	66%	1.1%	19%
Mastery Charter School at Pastorius	Germantown	19138	-12	-9	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Mastery Charter School at Pickett Campus	Germanatown	19144	-12	-13	95%	0%	2%	3%	1%	77%	0%	25%
Mastery Charter School at Shoemaker Campus	Carroll Park	19131	-4	11	96%	0%	1%	2%	1%	65%	0%	27%
Mastery Charter School at Smedley	Frankford	19124	-1	10	62%	1%	21%	13%	3%	73%	4.2%	25%
Mastery Charter School at Thomas Campus	South Philadelphia	19148	0	9	42%	22%	11%	7%	17%	69%	10%	19%
Mastery Charter School at Wister	Wister	19144	-13	-8	94%	0%	2%	2%	1%	53%	1.9%	13%
Mathematics, Science, and Technology Community Charter School (MAST)	Somerton	19116	42	42	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Memphis Street Academy Charter School at J.P. Jones	Kensington	19134	-13	-18	33%	2%	54%	5%	6%	89%	16.1%	27%
Multicultural Academy Charter School	East Toxa	19140	DNR	DNR	91%	1%	4%	3%	1%	46%	2.2%	15%
New Foundations Charter School	Holmesburg	19136	22	34	16%	4%	14%	6%	60%	29%	0%	10%
Northwood Academy Charter School	Frankford	19124	10	27	60%	4%	23%	9%	4%	62%	2.3%	17%
Pan American Academy Charter School	Fairhill	19133	-1	-1	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
People for People Charter School	Francisville	19130	-5	-11	95%	0%	2%	3%	0%	79%	0.0%	24%
Philadelphia Academy Charter School	Somerton	19116	38	37	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Philadelphia Charter School for the Arts and Sciences	Northwood	19124	-8	-5	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Philadelphia Electrical and Technology Charter School	Rittenhouse Square	19102	DNR	DNR	72%	3%	7%	3%	16%	54%	1.8%	18%
Philadelphia Montessori Charter School	Southwest	19142	-10	6	89%	2%	1%	6%	2%	75%	3.5%	25%
Philadelphia Performing Arts: A String Theory Charter School	South Philadelphia, Center City	19148	15	25	29%	8%	5%	7%	51%	40%	1%	15%
Preparatory Charter School of Mathematics, Science, Technology and Careers	South Philadelphia	19145	DNR	DNR	57%	12%	7%	3%	21%	53%	2.4%	7%
Richard Allen Preparatory Charter School	Southwest	19143	-16	-16	90%	4%	1%	4%	0%	68%	7.7%	12%
Russell Byers Charter School	Logan Square	19103	3	24	82%	1%	2%	3%	11%	47%	1.4%	16%
Sankofa Freedom Academy Charter School	East Kensington	19125	-9	-2	91%	0%	4%	4%	1%	80%	2%	16%
Southwest Leadership Academy Charter School	Southwest	19142	-5	9	95%	0%	1%	4%	0%	69%	3.7%	17%
Tacony Academy Charter School	Fox Chase	19111	12	20	33%	4%	21%	12%	31%	57%	1%	18%
TECH Freire Charter School	North Philadelphia	19132	DNR	DNR	93%	0%	4%	2%	1%	69%	0.3%	19%
Universal Charter School at Alcorn	Grays Ferry	19146	-2	0	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
Universal Charter School at Audenried	Grays Ferry	19145	DNR	DNR	92%	4%	2%	0%	2%	83%	3.3%	27%
Universal Charter School at Bluford	Carroll Park	19131	2	1	98%	0%	2%	0%	0%	68%	1.9%	22%
Universal Charter School at Creighton	Lawcrest	19120	8	13	40%	20%	36%	2%	2%	55%	22.3%	14%
Universal Charter School at Daroff	Haddington	19139	-13	-16	99%	0%	1%	0%	0%	70%	2.4%	18%
Universal Charter School at Vare	South Philadelphia	19145	-8	-13	77%	15%	6%	1%	2%	67%	1.1%	23%
Universal Institute Charter School	Southwest Center City	19146	-6	1	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
West Oak Lane Charter School	West Oak Lane	19138	-6	10	97%	0%	1%	2%	0%	63%	0.0%	12%
West Philadelphia Achievement Charter School	Morris Park	19151	-11	-1	94%	0%	2%	4%	0%	53%	0.0%	9%
Wissahickon Charter School	Hunting Park	19144	-2	8	89%	0%	2%	5%	4%	59%	0.0%	21%
Young Scholars Charter School	East Poplar	19123	3	19	DNR	DNR	DNR	DNR	DNR	DNR	DNR	DNR
YouthBuild Philadelphia Charter School	Yoketown	19122	DNR	DNR	88%	1%	7%	3%	2%	DNR	0%	23%
Averages	-	-	0	6.29	70.48%	3.43%	12.23%	5.09%	9.35%	64%	3.79%	18.42%