



Took Crowell Institute for Youth Suspending Suspensions Project Manual

Table of Contents

- I. School Discipline Advocacy**
 - a. Introduction: pages 2-7**
 - b. Advocacy Checklist: pages 9-10**
 - c. Tier 1 Disciplinary Responses: page 11**
 - d. Tier 2 Disciplinary Responses: page 12**
 - e. Tier 3 Disciplinary Responses: pages 13-14**
 - f. Tier 4 Disciplinary Responses: page 15-16**
 - g. Tier 5 Disciplinary Responses: pages 17-18**
 - h. Definitions of Disciplinary Response: page 19**
 - i. Suspension Time Line: pages 20-21**
 - j. Suspension Time Frame Cheat Sheet: pages 22-23**
 - k. Suspension contact information: pages 24-25**

- II. Samples**
 - a. Sample Advocacy Letter: page 26**
 - b. Sample Records Request: page 27**
 - c. Sample Records Release: page 28**
 - d. Sample Student and Parent Interview Questions: pages 29-30**
 - e. Sample School Administrator Interview Questions: page 31**

- III. Hearing Preparation**
 - a. Blank Case Chart: page 32**
 - b. 1 D.C.M.R 2900 et al.(OAH regulations): pages 33-37**
 - c. 5 D.C.M.R B2500 et al. (DCPS Discipline regulations): pages 38-66**

- IV. Additional Research:**
 - a. Landmark Case Citations: page 67**

- V. Appendix A:**
 - a. Guidance Regarding Select Chapter 25 Provisions from OYE: pages 68-76.**

I. Introduction

The Suspending Suspensions Project aims to stop illegal and unnecessary school exclusion in District of Columbia Public Schools (DCPS) by providing advocacy for parents and students at disciplinary hearings. The advocacy work is part of a larger effort to reform exclusionary school discipline in the District of Columbia.

II. District of Columbia Public Schools School Discipline Summary

DCPS disciplines students under Title 5, Chapter B25 of the D.C. Municipal Regulations. Chapter B25 outlines the student code of conduct, the range of disciplinary responses, and the student's due process rights.

Students can be disciplined for misconduct on one of five tiers, Tier 1 being the lowest level offenses and Tier 5 being the highest. Each tier contains numerous offenses with a range of disciplinary responses. Most, but not all, of the offenses are defined in the regulations. The regulations require that DCPS staff implement the least invasive response appropriate within the range provided by the law. The law provides for both in-school and out-of-school disciplinary responses, including mediation, community service, behavior contracts, in-school and out-of-school suspensions, and expulsions.

Before school staff can impose any out-of-school exclusion, the student is entitled to due process. Before deciding to suspend or otherwise discipline a student, the school staff must hold a conference with the student to discuss the alleged incident, hear the student's side of the story, and explain the student's rights. If the school decides to suspend the student, the school must provide written notice that contains a description of alleged incident and the proposed suspension within one school day of the start of the suspension.

After deciding to suspend a student following the conference, a school principal can impose an in-school suspension or a short-term suspension (1-5 school days). A principal can propose a medium-term suspension (6-10 school days), long-term suspension (11-90 school days), or expulsion (365 calendar days). The Instructional Superintendent, who is designated by the DCPS Chancellor, has the authority to approve, modify, or deny a proposed suspension or expulsion. The Instructional Superintendent must approve, modify, or deny a proposed suspension within 24 hours of receiving the proposal.

If the school is proposing a long term suspension or expulsion, the Instructional Superintendent must first approve the proposed suspension, and then DCPS staff from the Office of Youth Engagement (OYE) must schedule a disciplinary hearing within four days of the notice of suspension. The hearings are held at the Office of Administrative Hearings and heard by administrative law judges (ALJs).

The hearings are governed by 1 D.C.M.R. §2900. At the hearing, DCPS bears the burden of proving that the student committed the alleged offense, that all procedural protections were followed, and that the proposed punishment is logical, appropriate, and instructive. The student has the right to present evidence, cross-examine witnesses and examine documents, demand the presence of involved school officials, and have counsel or another advocate. The ALJ makes a recommendation and either the Instructional Superintendent (in long-term suspensions) or the Office of Youth Engagement (in expulsions) makes the final disciplinary decision.

The student can appeal any disciplinary decision. Students can appeal short-term suspensions to the principal within two days. Students can appeal medium-term suspensions to the Instructional Superintendent within two days. Students can appeal long-term suspensions to the Office of Youth Engagement within five days of receiving the final disciplinary decision. Students can appeal expulsions to the Instructional Superintendent within five days of receiving the final disciplinary decision.

Generally, students who are facing a proposed long-term suspension are entitled to stay in school until DCPS issues a final disciplinary decision, which means through the conference and hearing process. However, the school may suspend students immediately if there is an emergency situation at the school that warrants immediate suspension. An emergency situation exists when the student's behavior causes a real and immediate threat to the health or safety of the school community. In cases of emergency situations, the school must hold a conference within three days of the suspension.

If DCPS imposes a suspension, the student is still entitled to receive work, take tests, and earn credits towards promotion. If the suspension is for ten days or less, the student should receive a work packet. If the suspension is for more than ten days, the student should be placed at an alternative school. The only alternative school for students on suspension from DCPS is CHOICE Academy. When the student returns from school, DCPS staff should hold a meeting and create a welcome back plan to help the student reintegrate into the general education environment.

III. School Discipline Hearings

When the school proposes a long-term suspension or expulsion, the student is entitled to a disciplinary hearing. At that hearing, the student has the right to present evidence, call witnesses, and cross-examine the school's witnesses. The student can also compel witnesses from the school to attend the hearing. The student has the right to be represented by counsel or another advocate. The hearings are not governed by the formal rules of evidence, but the ALJs may exclude evidence that is repetitive or irrelevant. They may also make judgments regarding the reliability and weight given to documents and testimony.

The hearings are held at the Office of Administrative Appeals. The hearing rooms are small courtrooms with a witness box, tables for both parties, and a small gallery for witnesses or other spectators. The ALJ will direct the school to present their case first. Usually, the school's case is presented by staff at the school, and usually the school is not represented by counsel at this stage. After the school presents their case, the student will have the opportunity to cross-examine. Then, the student can present their case, and the school has the opportunity to cross-examine. The hearing officer can interrupt and ask questions of any party or witness at any time. The hearings are recorded.

IX. Disciplinary Hearing Advocacy Strategies

Generally, advocates can argue that suspensions or expulsions should be overturned or modified for one or all of the following reasons. First, advocates can argue that DCPS cannot meet their burden of proving that the alleged behavior occurred or is an offense for which a student can be suspended. Second, advocates can argue that DCPS did not follow the proper procedures before suspending a student. Third, advocates can argue that DCPS's proposed discipline is not logical, appropriate, or instructive. Advocates should use this framework, but should also be creative when investigating and crafting arguments. Advocates can (and should) create a hearing plan that outlines the arguments under each of the defenses. Advocates can use the chart provided following this section.

(A) Substantive Defenses: Can DCPS Prove the Alleged Offense?

- (1) Examine what evidence DCPS has that the student committed the alleged offense. They should disclose this evidence in the conference, the written notice, and in any record requests. Can you show that DCPS cannot meet their burden?
- (2) Interview the student. Find witnesses and other evidence that supports your client's story. Can you prove that the student did not commit the alleged offense?
- (3) Analyze whether the alleged behavior fits within the tier or offense definition that DCPS charged the student with. Can you prove that the behavior is not an offense for which suspension is appropriate? Should DCPS have charged at a lower tier?¹

(B) Procedural Defenses: Did DCPS Follow the Due Process Regulations?

- (1) DCPS staff is required to conduct and document disciplinary conferences. Did DCPS staff hold a conference? Did the school staff discuss the with the student everything that the regulation require at the conference, including:²
 - (a) The grounds for disciplinary action, including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;
 - (b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, including a summary of the recommended disciplinary action;
 - (c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;
 - (d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;
 - (e) A statement informing the adult student, or minor student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed discipline; and
 - (f) The student's rights to an appeal or to a hearing.
- (2) DCPS staff is required to provide written notice of suspensions to the parent in a verifiable manner Did DCPS staff provide written notice? Did the notice contain everything that the law requires, including:³
 - (a) The identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion.

¹ 5 D.C.M.R. §B2502

² 5 D.C.M.R. § B2505.4

³ 5 D.C.M.R. § B2505.5

- (b) A description of the infraction including a citation of the rule(s) upon which the action is based
 - (c) a summary of the facts
 - (d) the length of the proposed Suspension or Expulsion
 - (e) the principal's recommendation for an education plan
 - (f) a description of the student's right to appeal or to a hearing
- (3) The student should remain in school until the hearing is scheduled. Was the student allowed to stay in class?⁴ Is there an emergency situation that would allow DCPS to suspend the student before a conference or hearing?⁵
 - (4) The hearing should be scheduled within four days. Did DCPS staff schedule the hearing in a timely manner? Did the parent receive adequate written notice of the hearing?⁶
 - (5) The student is entitled to an education program even while on suspension. Did the student receive work or an alternative school placement?⁷

(C) Appropriateness Defense: Is the Proposed Discipline Logical, Appropriate, & Instructive?

- (1) The regulations list factors that must be considered before suspending a student. Analyze each of these factors to determine which ones way in your client's favor and present them to the hearing officer.⁸
 - (a) The nature of the infraction
 - (b) Circumstances relating to the infraction
 - (c) The age of the student
 - (d) The student's previous behavioral history
 - (e) Previous participation in counseling or conflict resolution efforts such as peer mediation
 - (f) Whether injury occurred
 - (g) Whether a weapon or controlled substance was involved

⁴ 5 D.C.M.R. § B2505.15

⁵ 5 D.C.M.R. § B2504.4

⁶ 5 D.C.M.R. § B2506.2

⁷ 5 D.C.M.R. § B2504.10

⁸ 5 D.C.M.R. § B2500.9

- (h) The safety of other students and staff
 - (i) The educational needs of other students
 - (j) The educational needs of the student to be disciplined
 - (k) Extenuating circumstances
- (2) Disciplinary responses should be the least severe appropriate for the alleged misconduct and should aim to keep students in their regular education environment. Are there less severe disciplinary responses within the infraction tier that should have been used, including:⁹
- (a) Verbal redirection/reprimand
 - (b) Teacher/student conference
 - (c) Parental contact (written or by phone)
 - (d) Parent conference
 - (e) Temporary Removal of Student from Classroom
 - (f) In-School Disciplinary Action
 - (g) Behavior contract
 - (h) Grade reduction for Academic Dishonesty only
 - (i) On-site Short-Term Suspension
 - (j) Off-site Short-Term Suspension
 - (k) Off-site Medium-Term Suspension
 - (l) Off-site Long-Term Suspension
 - (m) Expulsion (off-site Suspension for one calendar year).
- (3) Disciplinary responses should be logical, appropriate, and instructive. The regulations list a variety of behavior interventions that can be used with disciplinary responses to address misconduct. Does DCPS's proposed discipline "fit the crime"? Can you argue that another intervention, from the following list, is more logical, appropriate, or instructive?¹⁰
- (a) Anger management
 - (b) Attendance intervention plans
 - (c) Behavior intervention plan

⁹ 5 D.C.M.R. § B2500.12

¹⁰ 5 D.C.M.R. § B2500.6

- (d) Behavior log/behavior progress report
- (e) Behavior redirection
- (f) Community conference
- (g) Community service
- (h) Conflict resolution
- (i) Crime awareness/prevention programs
- (j) Diverse instructional strategies
- (k) In-school program restructuring (schedule change)
- (l) Individual or group counseling
- (m) Intervention by guidance counselor or mental health professional
- (n) Mediation
- (o) Mentoring
- (p) Parent conference
- (q) Parent observation of student
- (r) Positive feedback for appropriate behavior
- (s) Positive behavior supports
- (t) Problem solving conferences
- (u) Referral to community based organizations
- (v) Referral to substance abuse counseling service
- (w) Rehabilitative programs
- (x) Restitution
- (y) Restorative justice strategies
- (z) Social skills instruction
- (aa) Student support team meeting
- (bb) Other appropriate intervention strategies

**Took Crowell Institute for Youth
Suspending Suspensions Advocacy Project Manual
School Discipline Advocacy Checklist**

*If there are questions at any point, please reach out to your supervising attorney assigned to you from you legal law clinic.

1. Review intake form and contact your assigned partner to begin planning for the case.
2. Contact the student and the parent.
 - a. Explain who you are and why you are calling.
 - b. Find out if a hearing has been scheduled, and if so, the time and date of the hearing.
 - c. Schedule a meeting with the student and the parent as soon as possible.
 - d. Ask the parent what documents they have received from the school. Ask the parent and student to bring all documents to the meeting. If the parent has access to email or a fax machine, find out if they can send the documents to you in advance of the meeting.
 - e. Give the parent and student your contact information.
3. Meet with the parent and the student.
 - a. Explain and ask parent to sign release form and consent to services form.
 - b. Explain limits on confidentiality.
 - c. Interview student and parent using sample interview questions and forms, including questions about:
 - i. The incident
 - ii. Whether there are any witnesses, and if so, their contact information
 - iii. The due process procedures, including notice and conference
 - iv. If the student is receiving work or is in an alternative school
 - v. How the student is doing in school generally
 - vi. If there are any circumstances that would mitigate the alleged misconduct
4. Review suspension paperwork provided by the school including:
 - a. What disciplinary infraction the school is alleging the student committed
 - b. The length of the proposed suspension
 - c. If this constituted an emergency situation
5. Schedule the hearing, if it has not been scheduled, or re-schedule the hearing to give you and your partner time to prepare, if needed. Make sure it is at a time when the parent can make it.
6. Request records from the school in person, by email, or by fax. If you do not hear back from the school within 24 hours, follow up and explain that you need the records before the hearing. You should request all of the documents in the Student Behavior Tracker, or “SBT.”
7. Request surveillance video or photographs from the school, if applicable.
8. Contact potential witnesses and interview them. This should include witnesses from the school, other students, and any character witnesses. You can get and submit witness statements at the hearing.

9. Prepare arguments for the hearing, including substantive arguments, procedural arguments, and appropriateness arguments. Make sure you include on your outline the law and facts that support your argument.
10. If you need any witnesses from the school to be at the hearing, contact the Office of Youth Engagement within two days of the hearing to request their presence at the hearing.
11. Draft an opening statement, direct examination questions, cross examination questions, and a closing argument. Remember that hearings are usually scheduled for about one hour, so the opening and closing do not need to be lengthy. Include in the opening and closing what relief you are asking for.
12. Prepare your witnesses. Go over the questions with them and listen to their answers.
13. Make copies of any documentary evidence that you plan to use in the hearing, including witness statements or character references.
14. Call the parent and student the night before the hearing. Explain what they should expect. Make sure the student and parent know what time the hearing is and where the hearing is. Make a plan to meet with the parent and the student at least thirty minutes before the hearing.
15. Attend the hearing and advocate for the student. Bring four copies of any documents, including the suspension paperwork, witness statements, and any other documentary evidence you wish to use. You can also submit these documents to Office of Administrative Hearings before the hearing.
16. Follow up with the Office of Youth Engagement and the Instructional Superintendent if you do not receive the decision within 48 hours. Request copies of the final disciplinary decision and the hearing officer recommendation.
17. Complete post-hearing debriefing form.

Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

Tier 1 behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier 1 behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.

Behavior	Disciplinary Response(s)
1.1 Attending class without required class materials or assigned work	<ul style="list-style-type: none"> ☛ Verbal redirection or reprimand ☛ Teacher/student conference ☛ Parental contact in writing or by phone ☛ Teacher/Parent conference ☛ Temporary Removal of Student from Classroom* ☛ In-School Disciplinary Action* ☛ Behavior contract ☛ Other school-based consequences as approved by a person designated by the Chancellor
1.2 Behaviors that disrupt or interfere with classroom teaching and learning	
1.3 Communication with staff and peers that is not polite, courteous, or respectful	
1.4 Directing profanity or obscene/offensive gestures toward peers	
1.5 Excessive noise in the classroom, hall, or building	
1.6 Inappropriate displays of affection	
1.7 Noncompliance with an approved dress code ¹	
1.8 Off-task behaviors that demonstrate disengagement from classroom learning	
1.9 Refusal to comply with reasonable staff instructions, or classroom or school rules	
1.10 Refusal to present school-issued identification upon request	
1.11 Running in the classroom, hall, or building	
1.12 Unexcused lateness for school or class	
1.13 Any behavior or conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others	

¹ In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions are described in DCMR Chapter 24 Section B2408.16

Tier 2 behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier 2 behaviors result in school-based and administrative disciplinary responses.

Behavior	Disciplinary Response(s)
2.1 Directing profanity or obscene/offensive gestures toward staff	<ul style="list-style-type: none"> - Verbal redirection/reprimand - Teacher/student conference or Administrator/student conference - Parental contact in writing or by phone - Administrator/parent conference - Temporary Removal of Student from Classroom* - In-School Disciplinary Action* - Behavior contract - Other school-based consequences as approved by a person designated by the Chancellor
2.2 Inappropriate or disruptive physical contact between students	
2.3 Intentional misuse of school equipment/supplies/ facilities	
2.4 Leaving classroom without permission	
2.5 Throwing objects that may cause injury or damage property	
2.6 Unauthorized presence in hallway during class time	
2.7 Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones)	
2.8 Unexcused absence from class	
2.9 Unexcused absence from school ²	
2.10 Using computer/office equipment without permission	
2.11 Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others	
2.12 Documented pattern of persistent Tier 1 behavior	

² DCMR Chapter 21 (Attendance and Transfers) provides guidance about student attendance

Tier 3 behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier 3 behaviors may result in either on-site or off-site Suspension.

Behavior	Disciplinary Response(s)	
3.1 Academic dishonesty	<ul style="list-style-type: none"> ☛ Verbal redirection/reprimand ☛ Teacher/student conference or Administrator/student conference ☛ Parental contact (written or by phone) ☛ Parent conference ☛ Temporary Removal of Student from Classroom* ☛ Behavior contract ☛ In-School Disciplinary Action* ☛ Grade reduction for academic dishonesty ☛ On-site Short-Term Suspension* with provision of appropriate intervention services ☛ Off-site Short-Term Suspension*, except in response to unexcused tardiness or absence ☛ Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence 	
3.2 Bullying, or using humiliating, or intimidating language or behavior including Internet bullying		
3.3 Causing disruption on school properties or at any DCPS-sponsored or supervised activity		
3.4 Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language		
3.5 Engaging in behavior that demonstrates gang/neighborhood crew affiliation (displaying Clothing or gestures associated with gangs)		
3.6 Engaging in reckless behavior that may cause harm to self or others		
3.7 Engaging in sexual acts on school premises or at school-related functions		
3.8 Extortion		
3.9 Fighting where there is no injury and no weapon		
3.10 Forgery		
3.11 Gambling		
3.12 Hazing		
3.13 Inappropriate use of DCPS computer or network (restricted websites, offensive emails)		

Behavior	Disciplinary Response(s)
3.14 Leaving school without permission	<ul style="list-style-type: none"> ☛ Verbal redirection/reprimand ☛ Teacher/student conference or
3.15 Lying to or giving misleading information to school staff	<ul style="list-style-type: none"> ☛ Administrator/student conference ☛ Parental contact (written or by phone)
3.16 Obscene, seriously offensive, or abusive language or gestures	<ul style="list-style-type: none"> ☛ Parent conference ☛ Temporary Removal of Student from Classroom*
3.17 Possession of tools or instruments which school administrators deem could be used as weapons	<ul style="list-style-type: none"> ☛ Behavior contract ☛ In-School Disciplinary Action* ☛ Grade reduction for academic dishonesty
3.18 Possession or distribution of obscene or pornographic material on school premises	<ul style="list-style-type: none"> ☛ On-site Short-Term Suspension* with provision of appropriate intervention services
3.19 Possession or use of tobacco	<ul style="list-style-type: none"> ☛ Off-site Short-Term Suspension*, except in response to unexcused tardiness or absence
3.20 Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone)	<ul style="list-style-type: none"> ☛ Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence
3.21 Sale or distribution of any item without authorization	
3.22 Trespassing	
3.23 Unauthorized possession, use, or distribution of over-the-counter medication	
3.24 Use of alcohol	
3.25 Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicant, or drug paraphernalia	
3.26 Verbal, written, or physical threat to person or property (including intimidating postures)	
3.27 Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others	
3.28 Documented pattern of persistent Tier 2 behavior	

Tier 4 behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier 4 behaviors result in off-site Suspension.

Behavior	Disciplinary Response(s)
4.1 Activating false alarm	<ul style="list-style-type: none"> ☛ Off-site Short-Term Suspension*, Except in response to unexcused tardiness or absence ☛ Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence ☛ Off-site Long-Term Suspension*, Except in response to unexcused tardiness or absence
4.2 Acts of vandalism, destruction of property, or graffiti (tagging)	
4.3 Contaminating food	
4.4 Documented theft of school or personal property without force	
4.5 Fighting which creates substantial risk of or results in minor injury	
4.6 Inciting others to violence or disruption	
4.7 Interfering with school authorities or participating a major disruption of the school's operation	
4.8 Lewd or indecent public behavior or sexual misconduct	
4.9 Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business	
4.10 Possession of a weapon* or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act	
4.11 Retaliation for reporting harassment and sexual harassment	
4.12 Sexual harassment	
4.13 Tampering with, changing, or altering an official record or document of a school	
4.14 Using an article that is not normally considered a weapon to intimidate or threaten another individual	

4.15 Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others

4.16 Documented pattern of persistent Tier 3 behavior

Tier 5 behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

Behavior	Disciplinary Response(s)
5.1 Acts of Exceptional Misconduct at other schools	<ul style="list-style-type: none"> ☛ Off-site Long-Term Suspension*, except in response to unexcused tardiness or absence ☛ Expulsion*
5.2 Any behavior that violates the Gun Free School Act	
5.3 Arson	
5.4 Assault with a weapon	
5.5 Assault/physical attack on student or staff	
5.6 Biohazard	
5.7 Bomb threat	
5.8 Causing serious disruption or damage to school’s computer systems, electronic files, or network	
5.9 Commission or attempted commission of any act of sexual assault or sexual aggression	
5.10 Fighting which results in a serious physical injury	
5.11 Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury	
5.12 Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 et seq. (2001)	
5.13 Possession of fireworks or explosives	
5.14 Possession or distribution of alcohol	
5.15 Selling or distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia	

Tier 5 (continued)

Behavior	Disciplinary Response(s)
5.16 Theft or attempted theft using force, coercion, intimidation or Threat of violence	☛ Off-site Long-Term Suspension*, except in response to unexcused tardiness or absence
5.17 Use, possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.	☛ Expulsion*
5.18 Use, threatened use, or transfer of any weapon*	
5.19 Using an article that is not normally considered a weapon to injure another individual	
5.20 Vandalism/destruction of property over \$500	
5.21 Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools	
5.22 Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others	
5.23 Documented pattern of persistent Tier 4 behavior	

Definitions of Disciplinary Responses

Temporary Removal of Student from Classroom – removal from the student’s classroom for less than half a school day, not to extend beyond the time of dismissal on the day of the disciplinary action. During any such removal, the student shall be supervised and provided with instructional materials.

In-School Disciplinary Action –disciplinary actions such as after-school detention, loss of privileges (including recess), exclusion from extracurricular activities, written reflection, conflict resolution, mediation, or similar actions of short duration that do not result in the student’s loss of academic instruction time.

Short-Term Suspension—on-site or off-site suspension for one (1) to five (5) school days for Secondary students or one (1) to three (3) school days for Elementary students).

Medium-Term Suspension: suspension for six (6) to ten (10) school days.

Long-Term Suspension—suspension for eleven (11) to ninety (90) school days.

Expulsion—the denial of the right of a student to attend any DCPS school or program, including all classes and school activities, except DCPS Alternative Educational Settings, for one (1) calendar year.

Weapons— Include, but not limited to: weapons enumerated in DC Official Code 22-4514 (2001); firearms, knives, martial arts devices, air gun, bb gun, paintball gun, mace, pepper spray, tear gas, explosives, slingshot, bullets, chemical weapon, razorblade, razor, other weapons or instruments designed to be or commonly used as weapons (chains, clubs, knuckles, night sticks, pipes, studded bracelets) and others as listed in Chapter 25 (found on DCPS website).

Notice of non-discrimination. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The following office has been designated to handle inquiries regarding non-discrimination policies: Equal Employment Opportunity Office, District of Columbia Public Schools, 825 North Capitol Street, NE, Washington, DC 20002.

**School Discipline Chart
Took Crowell Institute for Youth
Suspending Suspensions Advocacy Project**

School Discipline Step	Applicable Law	Legal Strategy: What to do at this stage?
<p style="text-align: center;"><u>Step 1:</u></p> <p style="text-align: center;">Conference:</p> <p>Any student who is being suspended shall be given a conference with the school official who responsible for proposing the suspension prior to the suspension. <u>See 5 D.C.M.R. 2505.3</u></p>	<p>5 D.C.M.R. B2505.3- If student is suspended due to emergency conditions, then a conference shall be heard no more than 3 <u>days</u> after the suspension is initiated.</p> <p style="text-align: center;">5 D.C.M.R. B2505.4</p> <p style="text-align: center;">5 D.C.M.R. B2505.5</p>	<p>Attend conference with the student;</p> <p>Make sure the school discusses everything the law requires;</p> <p>Advocate for no suspension, an alternative disciplinary intervention, or a shorter suspension;</p> <p>Gather information about the alleged incident and the school's evidence.</p>
<p style="text-align: center;"><u>Step 2:</u></p> <p style="text-align: center;">Preliminary Disciplinary Decision</p>	<p style="text-align: center;">5 D.C.M.R. B2505.1</p> <p style="text-align: center;">5 D.C.M.R. B2505.7</p> <p style="text-align: center;">5 D.C.M.R. B2505.8</p> <p style="text-align: center;">5 D.C.M.R. B2504.10</p>	<p>Find out if a medium-term or long-term suspension has been submitted to the instructional superintendent and not just imposed by school-level staff;</p> <p>Contact the instructional superintendent to advocate for a denial or modification of proposed suspension;</p> <p>Ensure that student has education plan pending suspension hearing.</p>
<p style="text-align: center;"><u>Step 3:</u></p> <p style="text-align: center;">Written Notice</p>	<p style="text-align: center;">5 D.C.M.R. B2505.6</p>	<p>Review notice to ensure it contains everything the law requires;</p> <p>Find out if the notice was sent in a verifiable manner;</p> <p>If student/parent does not receive notice, advocate for the student to return to school because there is no legal basis for school to keep the student out.</p>

<p><u>Step 4:</u></p> <p>Hearing</p>	<p>5 D.C.M.R. B2505.15</p> <p>5 D.C.M.R. B2506</p>	<p>Schedule hearing with the Office of youth Engagement at a time convenient for the parent/student/advocate (within 4-9 days of written notice);</p> <p>Request the presence of any school officials who will help make your case;</p> <p>Prepare a hearing chart that outlines the defenses and proposed arguments;</p> <p>Attend hearing and ensure that all procedural protections are followed</p>
<p><u>Step 5:</u></p> <p>Final Disciplinary Decision</p>	<p>5 D.C.M.R. B2507</p>	<p>Contact Instructional Superintendent within 48 hours of the hearing to get the final disciplinary decision and the hearing officer recommendation;</p> <p>If the decision overturns the suspension, congratulations!;</p> <p>If the decision modifies to “time served”, consider requesting that the entire suspension be expunged;</p> <p>If the decision recommends continued suspension, assist parent in contacting CHOICE and decide on appeal.</p>
<p><u>Step 6:</u></p> <p>Appeal</p>	<p>5 D.C.M.R. B2505.14</p> <p>5 D.C.M.R. B2507.7</p> <p>5 D.C.M.R. B2507.9</p>	<p>Request appeal within given timeframe;</p> <p>Prepare a hearing chart that outlines arguments, including alleging that the hearing was not in accordance with the regulations;</p> <p>Attend appeal.</p>

Suspension Time Frame Cheat Sheet

Short-term suspensions

- Suspensions lasting **1-5 school days**.
- Must be appealed to the principal no later than **2 school days** after receiving notice of the suspension.
- All appeals will be heard by the principal no later than **1 school day** after the appeal is requested. (Upon request by student's parent, the time for the appeal may be extended **up to 3 school days**.)
- No more than **1 school day** after the conference, the principal shall give the student and his or her parent, a person designated by the Chancellor and the head of the Office of Youth Engagement a written summary on the conference proceedings, including a final decision.
- Principal authorizing suspension shall submit the authorization letter to a person designated by the principal within **1 school day**.

Medium-term suspensions

- Suspensions lasting **6-10 school days**.
- Must be appealed to the person designated to the Chancellor (normally the superintendent) no later than **2 school days** after receiving notice of the suspension.
- All appeals will be heard by the person designated by the Chancellor no later than **1 school day** after the appeal is requested. (Upon request by student's parent, the time for the appeal may be extended **up to 3 school days**.)
- Principal must **immediately** submit proposal to a person designated by the Chancellor.

Long-term suspensions

- Suspensions lasting **11-90 school days**
- Conferences **must occur before suspension is initiated**. However, if a student is suspended due to a emergency condition, then the conference must occur no more than **3 days** after the suspension is initiated.
- Principal must **immediately** submit proposal to a person designated by the Chancellor.
- The person designated by the Chancellor shall forward the recommended suspension to the hearing officer for immediate scheduling and shall provide notice of the intent to schedule a hearing to the parent no more than **1 school day** after authorizing or modifying a long-term suspension.
- Hearing shall be held not more than **4 school days** after a written notice regarding disciplinary action is provided to the parent. (Parent can postpone hearing for not more than **5 school days**.)
- Within **1 school day** of the conclusion of the disciplinary hearing, the hearing officer shall issue a written recommendation.
- A person designated by the Chancellor shall render a final decision no later than **1 school day** after receiving the hearing officer's recommendation.
- A copy of the written determination shall be given or mailed to the student's guardian within 24 hours of the final determination.

Long-Term Suspension: Direct appeal to Office of Youth Engagement (OYE)

- See 5 D.C.M.R 2507.7 for full explanation
- A student's guardian must submit a written or oral request to appeal a proposed Long-Term Suspension to the head of OYE within **5 school days** of receiving notification of the suspension.
- Upon receipt of an appeal, the head of OYE shall schedule a conference to be held within **3 school days** of receiving the appeal request.
- No more than **2 school days** after the conclusion of the conference, the head of OYE shall render a final decision.

Time Frames relevant to all suspensions

- Written notice must be sent to the parent or guardian no later than **1 school day** after the decision to suspend. See 5 D.C.M.R 2505.6
- No more than **5 school days** after receiving the principal's findings, a person designated by the Chancellor shall either concur or modify the recommended action.
- Any removal of a student with a disability for more than **10 school days** (even if it is multiple suspensions added together) constitute a change of placement and require a manifestation determination review (MDR).

**DCPS Student Discipline: Who is Making the Decision?
(As of October 17, 2015)**

<p align="center"><u>Step 1:</u></p> <p align="center">Proposed Disciplinary Action</p>	<p><u>School Level: Principal, AP, Dean of Students</u></p> <p>H.D. Woodson High School Phone: (202) 939-2030 Fax: (202) 645-4193 Acting Principal: Darrin Slade darrin.slade@dc.gov</p> <p>Anacostia Senior High School Phone: (202) 698-2155 Fax: (202) 698-2188 Principal: Eric Fraser eric.fraser@dc.gov</p> <p>Kramer Middle School Phone: (202) 939-3150 Fax: (202) 698-1169 Principal: Roman Smith roman.smith@dc.gov</p>
<p align="center"><u>Step 2:</u></p> <p align="center">Approval of Long-Term Expulsion</p>	<p align="center"><u>Instructional Superintendent's Office</u></p> <p>Anacostia Senior High School: Cluster IX Superintendent: David Pinder david.pinder@dc.gov</p> <p>H.D. Woodson High School: Cluster VIII Superintendent: Drewana Bey</p> <p>Kramer Middle School: Cluster VII Superintendent: Natalie Gordon. Natalie.gordon@dc.gov</p>
<p align="center"><u>Step 3:</u></p> <p align="center">Scheduling Hearing and</p> <p align="center">Obtaining Discovery*</p> <p>*(Note: Once assigned to case, email signed release to Mr. Jenkins (or whoever from OYE is managing the case), and ask for <u>Discovery Packet.</u>) (continued)</p>	<p align="center"><u>Discipline Student hearing Office @ the Office of Youth Engagement (OYE)</u></p> <p>Main Office: (202) 442-5437</p> <p>Deputy Director: Mr. Arthur Fields arthur.fields@dc.gov</p> <p align="center">David Jenkins Manager of Policy and Compliance</p>

<p>Step 3 (continued)</p>	<p>(202) 442-5563 (office); (202) 345-0356 (cell) david.jenkins2@dc.gov</p> <p>Ato Biney Youth Engagement Division ato.biney@dc.gov Main Office: (202) 499-0525</p> <p><u>Office of Administrative Hearings (OAH)</u> Main office: (202) 727-9094</p> <p>Lateefah Jackson Legal Assistant lateefah.jackson@dc.gov</p>
<p><u>Step 4:</u> Preliminary Motions (if applicable)</p>	<p><u>Electronic Filing Via Email</u></p> <p>oahdeps.filing@dc.gov</p>
<p><u>Step 5:</u> Hearing Decision</p>	<p><u>Long Term Suspension</u> Instructional Superintendent</p> <p>Anacostia Senior High School: Cluster IX Superintendent: David Pinder david.pinder@dc.gov</p> <p>H.D. Woodson High School: Cluster VIII Superintendent: Drewana Beynder</p> <p>Kramer Middle School: Cluster VII Superintendent: Natalie Gordon. Natalie.gordon@dc.gov</p>
<p><u>Step 6:</u> Appeal</p>	<p>Office of Youth Engagement</p> <p>David Jenkins, Program Specialist david.jenkins2@dc.gov, (202) 442-5563 office; (202) 345-0356 (or the specialist assigned to your case)</p>
<p>C.H.O.I.C.E Academy Middle/High School (Alternative school for kids that have suspension finalized for over 10 days.)</p>	<p>Michael Alexander, Principal Phone: (202)939-4350 Fax: (202) 673-8123 michael.alexander@dc.gov</p>

SAMPLE DISCIPLINE ADVOCACY LETTER

September 26, 2016

Principal Eric Fraser
cc: Superintendent David Pinder
Anacostia High School
1601 16th St, SE
Washington, DC 20020

Sent via Fax to (202) 698-2188 and email to eric.fraser@dc.gov, cc: david.pinder@dc.gov

Dear Principal Fraser:

I am writing in reference to Jason, and his recent suspension from school. It is my understanding that on Tuesday, during lunch, Jason was told that he was suspended from school and sent home. The dean of students told Jason to await a phone call from DCPS to inform him about the length of his suspension. To date, neither Jason nor Ms. Parent have received a phone call or any paperwork relating to this suspension. Staff at Anacostia did not follow the proper procedures for suspending Jason, and Jason should be permitted to return to school immediately.

As you know, no disciplinary action is to be effectuated unless it is in accordance with the procedures set forth in Chapter B2500 et seq. In Jason's case, these procedures were not followed. Jason did not receive a conference before being suspended from school. School staff should have held a conference with Jason where they discussed the alleged incident, the evidence against Jason, and allowed Jason an opportunity to tell his side of the story. At the conference, school staff should have proposed a definitive suspension, as opposed to an indefinite removal from school. 5 D.C.M.R. B2505.4 Moreover, neither Jason nor his mother received proper notice of the suspension. School staff should have both called Ms. Parent and sent home a suspension notice containing the details of the suspension. 5 D.C.M.R. B2505.6. Lastly, Jason has been out of school for ten days, and DCPS staff have not scheduled a hearing nor provided Jason with an alternative school placement. 5 D.C.M.R. B2504.10; 5 D.C.M.R. B2506.2.

In light of this information, Jason's suspension is invalid and you should allow him to return to school immediately. Please call me at 555-555-5555 to discuss this matter. Thank you for your prompt attention to this serious and urgent matter.

Sincerely,

Educational Advocate

SAMPLE LETTER REQUESTING RECORDS

September 26, 2016

Principal Eric Fraser
cc: Superintendent David Pinder
Anacostia High School
1601 16th St, SE
Washington, DC 20020

Sent via Fax to (202) 698-2188 and email to eric.fraser@dc.gov, cc: david.pinder@dc.gov

To Whom It May Concern:

I am writing to request a complete copy of any and all school records that you have for Student. This request includes, but is not limited to, the following documents:

- School discipline records, including any office referrals, suspension or expulsion records, written notices regarding suspensions, and conference reports
- Any records, including witness statements or documentary evidence, concerning the proposed suspension dated September 26, 2016.
- Transcripts, report cards, and other academic records
- Attendance records
- Any and all special education records

I have attached a signed release from students's grandmother for your review.

Please fax or email the records to my attention to 555-555-5555 or lawstudent@udc.edu before the end of the week. If you have any questions, please call me at 555-555-5555. Thank you.

Sincerely,

Student Advocate

SAMPLE RELEASE

Upon receipt of this Release, or a photocopy thereof, you are authorized to allow any representative of the Suspending Suspensions Advocacy Project including, but not limited to _____ to examine, inspect, make, and retain notes from, or make and retain photocopies of, any and all records and information, related to a student named _____, whose date of birth is _____. This Release covers any and all records and information in your possession, custody, or control, including medical, psychiatric, legal, financial, employment, military, and educational records and information.

This Release further authorizes any person familiar with or having or acquiring knowledge about _____ related to any of the above subject matters to freely discuss such information, records, or non-recorded information with any of the above-named persons or representatives from the Suspending Suspensions Advocacy Project.

A photocopy of this Release should be given the same effect as the original.

Dated: _____

Signed: _____

Address: _____

Relationship to the Above-Referenced Student: _____

**Took Crowell Institute for At-Risk Youth
Suspending Suspensions Advocacy Project Manual
School Discipline Advocacy Quick Guide**

Sample Student & Parent Interview Questions

Background information

1. Tell us about what led you to call the Suspending Suspensions Advocacy Project.
2. What is the student's name? How old is he/she? When was he/she born?
3. What school do they attend?
4. What grade level is he/she in?
5. How long has he/she attended this school?
6. What school did he/she previously attend?
7. How is he/she doing in school?
8. Have you seen his/her progress reports?
9. What are his/her grades like?
10. What is his/her behavior like outside of school?
11. What kind of relationship does he/she have with family and friends?
12. What are his/her hobbies?
13. Are there any people who would be character witnesses for the student?

Incident-specific information

1. Describe the incident.
2. What happened the day of that incident?
3. When did it happen? What time of day was it when the incident took place?
4. Were there any witnesses?
5. What happened after the incident?
6. Did the student get suspended?

7. How long was the proposed suspension?
8. Did the school hold a meeting about the incident?
9. Did the school provide you with any documentation?
10. What did the school require of him/her during the suspension period?

Concerns or issues with school

- How do you normally communicate with the school?
- What is your relationship like with school administrators?
- Has she/he ever had behavioral problems in the past?
- What is the student's disciplinary history at this school? At other schools?
- Have you ever spoken with his/her teachers or school administrators about his/her academic progress?
- What were the outcomes of those conversations?
- Has she/he ever gotten in trouble before? What other problems has he/she been in before?
- What did the school do regarding each of those incidents?
- What did you do about those incidents?
- Has she/he ever been evaluated for special education?
- Was he/she ever identified as a student with disability?

Next Steps

- What would you like to see happen next?
- Do you have copies of all documents you've ever received from schools?
- Do you have contact information of people you've spoken with at the school?
- Do you have any questions or concerns for us?

**Took Crowell Institute for At-Risk Youth
Suspending Suspensions Advocacy Project Manual
School Discipline Advocacy Quick Guide**

Sample School Administrator Interview Questions

- 1) Please tell us more about your role and position at this school.
- 2) How long have you been in this position?
- 3) Are you familiar with this student?
- 4) How familiar are you with this student?
- 5) Have you had communication with the guardian?
- 6) How often have you been in contact with the guardian?
- 7) What is your relationship with the guardian like?
- 8) What was the incident that led to this discipline?
- 9) How did you find out about the incident?
- 10) What investigation did you do?
 1. Do you have witness statements? Documentary evidence? Video?
- 11) What discipline are you imposing for this incident/conduct?
- 12) How long is the discipline (suspension) for?
- 13) What infraction is the student charged with?
- 14) Do you feel that this is a proper infraction to charge the student with? Why?
 1. Did you consider other infractions? Which ones?
- 15) Has there been a history or pattern of discipline by this student?
 1. Has the student been suspended before?
 2. Have you seen any changes in the student recently?
 3. What is the student typically like during the school day?
- 16) Do you have any ideas as to why this student behaved the way he/she did to cause this disciplinary measure?
- 17) Have you provided the guardian with notice or documentation of the incident ?
- 18) Have you provided the student with work?
- 19) What are your plans upon the student's return?
- 20) Are there other disciplinary measures that you would consider instead of suspension?

Issues/Argument: Substantive Defense	Law & Elements	Facts	Documents	Witnesses

OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE OF FINAL RULEMAKING

The Chief Administrative Law Judge of the Office of Administrative Hearings (OAH), pursuant to the authority set forth in sections 8(a)(7) and 8(b)(7) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code §§ 2-1831.05(a)(7) and (b)(7) (2007 Repl. & 2011 Supp.)), hereby gives notice of the adoption of the following amendments to chapter 29, Office of Administrative Hearings: Rules for Rental Housing, Public Benefits, and Unemployment Insurance Cases, of title 1 of the District of Columbia Municipal Regulations (DCMR).

These rules establish new procedures that govern cases referred to OAH by the District of Columbia Public Schools (DCPS). An emergency and proposed rulemaking was published in the *D.C. Register* on December 23, 2011, at 58 DCR 11122. Emergency rules were adopted on December 20, 2011, and became effective on that date. A second proposed rulemaking was issued on March 16, 2012, at 59 DCR 2162, which contained revisions made after considering comments received and superseded the previous proposed rulemaking. Comments were again received; however, no further changes have been made to the rules at this time following the second proposed rulemaking. This final rulemaking was adopted on April 17, 2012, and will become effective upon publication in the *D.C. Register*.

The title of Chapter 29, Office of Administrative Hearings: Rules for Rental Housing, Public Benefits, and Unemployment Insurance Cases, of title 1 DCMR is amended to read as follows:

CHAPTER 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR DCPS, RENTAL HOUSING, PUBLIC BENEFITS, AND UNEMPLOYMENT INSURANCE CASES

Chapter 29, Office of Administrative Hearings: Rules for Rental Housing, Public Benefits, and Unemployment Insurance Cases, of Title 1 DCMR is amended by adding the following sections 2900 through 2909 to read as follows:

2900 DCPS Hearings – Scope

2900.1 Sections 2900 through 2909 govern procedures in cases referred to OAH by the District of Columbia Public Schools (DCPS).

2900.2 For procedural issues not covered in Sections 2900 through 2909, the rules in Chapter 28 apply.

2900.3 OAH is not required to follow any other procedural rules adopted by DCPS in cases referred to OAH by DCPS.

2901 DCPS Student Discipline Cases – Referrals

2901.1 DCPS may refer a student discipline case to OAH, for an Administrative Law Judge to hold a hearing and to decide:

- (a) The material facts;

(b) Whether required due process procedures, including notice and the opportunity to respond to the charges, have been followed or have been waived, including whether there was prejudicial failure to follow procedures identified in 5 DCMR B § 2505; and

(c) Whether the facts show that the student committed any of the violations upon which a proposed disciplinary action is based and the proper Tier for any violation, as specified in 5 DCMR B § 2502.

2901.2 DCPS shall refer a student discipline case by filing with OAH a copy of the notice of recommended action provided to the adult student, or a minor student's parent or guardian. The hearing notice shall contain the hearing date and state the consequences of failing to attend the hearing.

2902 DCPS Student Discipline Cases – Hearings

2902.1 An adult student, or a minor student's parent or guardian, may request DCPS to postpone the hearing for not more than five (5) school days if necessary to prepare for the hearing or provide for the attendance of necessary parties or witnesses.

2902.2 The parties may, but are not required, to file exhibits and witness lists in advance of the hearing.

2902.3 DCPS shall allow an adult student, or a minor student's parent or guardian, to inspect and copy the student's disciplinary file before the hearing.

2902.4 DCPS shall make the student's disciplinary file electronically available to OAH. OAH shall make copies of the disciplinary file available at the hearing to DCPS and the adult student or the minor student's parent or guardian. Either party may move to introduce all or part of the disciplinary file into evidence at the hearing.

2902.5 The parties shall have all rights set forth in Subsection 2821.5 at a hearing.

2902.6 In addition to the representatives listed in Sections 2833 and 2835, an adult student or a minor student's parent or guardian may select another person to represent a student at a hearing. Such a representative is subject to Subsections 2835.12 through 2835.14.

2902.7 The hearing shall be closed to the public unless the adult student or the minor student's parent or guardian requests the hearing be open to the public.

2902.8 A party who fails to appear for a scheduled hearing may ask OAH, in writing, for a new hearing date. The request must be filed within one (1) school day after the scheduled hearing date. The Administrative Law Judge may grant a new hearing date for good cause shown.

2903 DCPS Student Discipline Cases – Decisions

2903.1 After the close of the record in a student discipline case, the Administrative Law Judge shall issue Findings of Fact and Conclusions of Law on the issues identified in Subsection 2901.1.

2903.2 The Administrative Law Judge shall issue the findings of fact and conclusions of law within one

(1) school day after the close of the record. OAH shall provide a copy to DCPS, which shall include it with the final decision sent to the adult student, the minor student's parent or guardian and any authorized representative.

2903.3 In all student discipline cases, DCPS shall be bound by the Administrative Law Judge's Findings of Fact and Conclusions of Law and shall have no authority to reverse or modify the findings of fact and conclusions of law.

2903.4 If the Administrative Law Judge concludes that the student committed any of the violations upon which the disciplinary action is based, the Administrative Law Judge shall make a recommendation for the appropriate discipline within the Tier found to be proper considering the factors in 14 DCMR B2500.9. OAH will return the case to DCPS for it to decide the appropriate discipline.

2903.5 If the Administrative Law Judge concludes that due process was denied or that the student did not commit any of the violations upon which the disciplinary action is based, OAH will return the case to DCPS for appropriate action.

2903.6 Because OAH must return these cases to DCPS for further action, the Administrative Law Judge's decision is not a final disposition of the matter, and a statement of appeal rights is not required by Subsection 2830.1.

2904 DCPS Student Discipline Cases – Reconsideration

2904.1 No party in a student discipline case shall have the right provided by Section 2828 to file a motion for reconsideration or for a new hearing or a motion for relief from a final order.

2904.2 If the adult student or minor student's parent or guardian did not receive actual notice of the hearing and DCPS has issued a final notice of disciplinary action, the adult student or minor student's parent or guardian may file a request for reconsideration with DCPS and request that DCPS vacate the final notice and refer the case back to OAH for a hearing and to vacate the Findings of Fact and Conclusions of Law. When it decides such a request, DCPS may order a new hearing or DCPS may ask for OAH to decide whether to grant a new hearing.

2905 DCPS Contested Residency Cases – Referrals

2905.1 DCPS may refer a contested residency case to OAH for a final decision.

2906 DCPS Contested Residency Cases – Beginning a Case

2906.1 DCPS shall refer a contested residency case to OAH by filing a copy of the request for review that it received, along with a statement that DCPS requests OAH to hear and to decide the case.

2907 DCPS Contested Residency Cases – Hearings

2907.1 In all contested residency cases, OAH shall set the hearing date and issue the hearing notice.

2907.2 The rules in Chapter 28 apply to all hearings in contested residency cases, except that parties

should file and serve the witness lists and exhibit lists required by Subsection 2821.2 no later than three (3) days before the hearing date.

2908 DCPS Contested Residency Cases – Final Orders

2908.1 The presiding Administrative Law Judge shall issue a final order in all contested residency cases, which shall include the statement of appeal rights required by Subsection 2830.1.

2909 DCPS Cases – Confidentiality of the Record

2909.1 The OAH record in any case referred by DCPS is confidential. Only the following persons may have access to that record:

- (a) The adult student;
- (b) The minor student’s parent, guardian, or representative;
- (c) Any person who has the written consent of the adult student or the minor student’s parent or guardian; and
- (d) School officials with a legitimate interest.

Section 2999, Definitions, is amended as follows:

The first sentence in section 2999, Definitions, is assigned subsection 2999.1 so that it reads as follows:

2999.1 Unless otherwise provided, the definitions in Chapter 28 apply to this Chapter.

The second sentence in section 2999, Definitions, is assigned subsection 2999.2 so that it reads as follows:

2999.2 For purposes of this Chapter, the term:

The following definitions are added in alphabetical order:

Contested residency case means a case in which an adult student or a minor student’s parent or guardian has filed, pursuant to 5 DCMR E§ 2009.3, a request for review of a decision by DCPS that a student is not entitled to tuition-free education because the student is not a resident of the District of Columbia.

DCPS means District of Columbia Public Schools.

Disciplinary file means any and all tangible evidence, in DCPS’s possession, which forms the basis for the school’s decision to propose the specific disciplinary action, including, but not limited to, student, staff and other witness statements, incident reports, photographs, police reports, and security camera footage. Nothing in these rules prohibits DCPS from redacting any information it deems confidential or protected.

School day means a day that school is open, whether or not students are attending, but does not include any day that OAH is closed.

Student discipline case means a case in which DCPS seeks to expel a student or to suspend a student for at least eleven (11) days.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF FINAL RULEMAKING

The Chancellor of the District of Columbia Public Schools, pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007 (Act), effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172) (2007 Supp.), and Mayor's Order 2007-186 (August 10, 2007), hereby gives notice of the adoption of the following rule. The rule will repeal Title 5, Chapter 25 of the *D.C. Municipal Regulations* (DCMR), and replace it with Chapter B25 to establish revised student discipline rules for the District of Columbia Public Schools (DCPS).

A notice of proposed rulemaking was published in the *D.C. Register* on March 27, 2009 (56 DCR 2399). No changes have been made to the text of the proposed rules. Additionally, the Student Discipline Regulations Approval Resolution of 2009 (PR18-201) was submitted to the Council on April 7, 2009. The Council has neither approved nor disapproved of the rulemaking during the required 45 day period of Council review and they are therefore deemed approved pursuant to section 103 of the Act. These rules shall become effective on the date of publication of this notice in the *D.C. Register*

Chapter 25 of Title 5 is repealed

A new Chapter B25 of Subtitle B of Title 5 of the DCMR is added to read as follows:

CHAPTER B25 STUDENT DISCIPLINE

B2500 GENERAL POLICY

B2501 APPLICABILITY

B2502 GROUNDS FOR DISCIPLINARY ACTION

B2503 POLICY FOR DISCIPLINARY ACTIONS

B2504 POLICY FOR SUSPENSIONS AND EXPULSIONS

B2505 PROCEDURES FOR SUSPENSIONS AND EXPULSIONS

B2506 PROCEDURES FOR DISCIPLINARY HEARINGS

B2507 HEARING OFFICER RECOMMENDATIONS

B2508 REVIEW BY THE CHANCELLOR

B2509 RE-ENTRY FOLLOWING EXPULSION

B2510 PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY

B2599 DEFINITIONS

B2500 GENERAL POLICY

B2500.1 It is the policy of D.C. Public Schools (DCPS) that a safe environment conducive to learning shall be maintained. To build and maintain this environment, DCPS shall provide students, families, and staff with clear expectations and rules for appropriate school behavior. These rules must balance the responsibilities and rights of individuals and the responsibilities and rights of the school community. DISTRICT OF COLUMBIA REGISTER VOL. 56 - NO. 33 AUGUST 14 2009 006375 2 These rules must reflect the individual's responsibility for contributing to a safe environment conducive to learning and the need for mutual respect and cooperation among all segments of the school community.

B2500.2 DCPS is committed to helping students learn the expectations and rules for appropriate school

behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs.

B2500.3 When a student's behavior disrupts the school community's safe learning environment, DCPS will use a range of disciplinary responses intended to change and manage inappropriate behavior. In administering disciplinary responses, DCPS will work with students to correct inappropriate behavior. Students will be enabled and encouraged to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.

B2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.

B2500.5 DCPS shall involve family members in efforts to determine the causes of misbehavior and in efforts to support appropriate school behavior.

B2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:

- (a) Anger management;
- (b) Attendance intervention plans;
- (c) Behavior intervention plan;
- (d) Behavior log/behavior progress report;
- (e) Behavior redirection;
- (f) Community conference;
- (g) Community service;
- (h) Conflict resolution;
- (i) Crime awareness/prevention programs;
- (j) Diverse instructional strategies;
- (k) In-school program restructuring (schedule change);
- (l) Individual or group counseling;
- (m) Intervention by guidance counselor or mental health professional;
- (n) Mediation, including teacher/student mediation and multi-party dispute resolution;
- (o) Mentoring;

- (p) Parent conference;
- (q) Parent observation of student;
- (r) Positive feedback for appropriate behavior;
- (s) Positive behavior supports
- (t) Problem solving conferences;
- (u) Referral to community based organizations;
- (v) Referral to substance abuse counseling service;
- (w) Rehabilitative programs;
- (x) Restitution;
- (y) Restorative justice strategies;
- (z) Social skills instruction;
- (aa) Student support team meeting; and
- (bb) Other appropriate intervention strategies.

B2500.7 DCPS decisions regarding student behavior and discipline shall respect individuals, balance the interests of the school community, and minimize disruption of academic instruction.

B2500.8 DCPS shall provide a fair and consistent approach to student discipline within the context of students' rights and responsibilities, as further articulated in these rules.

B2500.9 Disciplinary responses shall be logical, appropriate, and instructive. Disciplinary responses shall consider factors such as:

- (a) The nature of the infraction;
- (b) Circumstances relating to the infraction;
- (c) The age of the student;
- (d) The student's previous behavioral history;
- (e) Previous participation in counseling or conflict resolution efforts such as peer mediation;
- (f) Whether injury occurred;
- (g) Whether a weapon or controlled substance was involved;
- (h) The safety of other students and staff;

(i) The educational needs of other students;

(j) The educational needs of the student to be disciplined (including those enumerated in an IEP or a plan issued pursuant to § 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 355; 29 U.S.C. § 794)); and

(k) Extenuating circumstances.

B2500.10 Disciplinary responses, as defined in § B2502 of this chapter, shall be aimed, to the extent practicable under the circumstances, to enable students to continue their instructional program.

B2500.11 Staff shall implement disciplinary responses in a progression, beginning with the least severe appropriate response, within the range of permissible disciplinary responses as enumerated in § B2502.

B2500.12 Disciplinary responses shall include, but not be limited to, the following strategies:

(a) Verbal redirection/reprimand;

(b) Teacher/student conference;

(c) Parental contact (written or by phone);

(d) Parent conference;

(e) Temporary Removal of Student from Classroom;

(f) In-School Disciplinary Action;

(g) Behavior contract;

(h) Grade reduction for Academic Dishonesty only;

(i) On-site Short-Term Suspension (one (1) – five (5) school days for Secondary students or one (1) – three (3) school days for Elementary students);

(j) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;

(k) Off-site Medium-Term Suspension (six (6) – ten (10) school days), except in response to unexcused tardiness or absence;

(l) Off-site Long-Term Suspension (eleven (11) - ninety (90) school days), except in response to unexcused tardiness or absence; and

(m) Expulsion (off-site Suspension for one calendar year).

B2500.13 Except for those corrective and disciplinary measures permitted pursuant to § B2408 of this title, involuntary transfers pursuant to Chapter 21 shall not be used as a disciplinary

response.

B2500.14 Students shall receive adequate and timely notification of student infractions and disciplinary responses.

B2500.15 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to students and parents within thirty (30) days after the start of each school year or upon initial enrollment, whichever occurs later.

B2500.16 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to school staff within thirty (30) days after the start of each school year, or upon initial employment, whichever occurs later.

B2500.17 All oral communications, including conferences, appeals, and hearings conducted with any student, parent, or guardian shall be conducted with interpretation services when necessary to ensure effective communication. Interpretation service shall include a qualified interpreter, as that term is defined in D.C. Official Code § 2-1901 (2007 Rpl.) or DCPS staff member who is fluent in the individual's native language. A certified sign language interpreter shall be provided for any student, parent, or guardian who is deaf or hard of hearing upon request.

B2500.18 All written documents concerning the disciplinary process shall be considered vital documents and provided to any student, parent, or guardian in a format that he or she can understand. For individuals with Limited or No-English Proficiency, documents shall be provided in the individual's native language. For individuals with vision impairments, reasonable accommodations shall be made to provide documents in a manner accessible to the individual, including but not limited to Braille, large type, audio recording, or some other suitable electronic media.

B2501 APPLICABILITY

B2501.1 The provisions of this chapter shall be enforceable by school authorities, as follows:

(a) When the student is on school grounds;

(b) When the student is on or off school grounds participating in or attending any function or activity, including field trips, class trips, extracurricular activities, or athletic contests, that are sponsored by or are under the auspices of DCPS;

(c) When the student is off school grounds and traveling on transportation provided by DCPS and the activity involves any conduct prohibited by this chapter;

(d) When the student commits a prohibited offense that occurs during before-school or after-school programs; and

(e) When a student has committed a prohibited offense off school grounds or outside regular school hours that results in a significant disruption to the school environment.

B2502 GROUNDS FOR DISCIPLINARY ACTION

B2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if

they are not successfully abated by the teacher or the appropriate school-level committee.

(a) The following behaviors shall be considered Tier I behaviors:

- (1) Refusal to present school-issued identification upon request;
- (2) Attending class without required class materials or assigned work;
- (3) Off-task behaviors that demonstrate disengagement from classroom learning;
- (4) Behaviors that disrupt or interfere with classroom teaching and learning;
- (5) Unexcused lateness for school or class;
- (6) Inappropriate displays of affection;
- (7) Excessive noise in the classroom, hall, or school building;
- (8) Running in the classroom, hall, or school building;
- (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
- (10) Directing profanity or obscene/offensive gestures toward peers;
- (11) Refusal to comply with staff instructions, or classroom or school rules; and
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.

(b) Disciplinary responses for Tier I behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student conference;
- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract; and
- (8) Other school-based consequences as approved by a person designated by the Chancellor.

B2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor

harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

(a) The following behaviors shall be considered Tier II behaviors:

- (1) Using computer/office equipment without permission;
- (2) Intentional Misuse of School Equipment/Supplies/Facilities;
- (3) Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones);
- (4) Non-compliance with approved dress code/uniform policy;
- (5) Leaving classroom without permission;
- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;
- (9) Inappropriate or disruptive physical contact between students;
- (10) Directing profanity or obscene/offensive gestures toward staff;
- (11) Throwing objects that may cause injury or damage to property;
- (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the academic environment, involves damage to school property, or may cause minor harm to self or others; and
- (13) Documented Pattern of Persistent Tier I Behavior.

(b) Disciplinary responses for Tier II behaviors shall include:

- (1) Verbal redirection or reprimand;
- (2) Teacher/student or administrator/student conference;
- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and

(9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section B2408.16 of this title.

B2502.3 Tier III behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause significant disruption to the academic environment or cause harm to self or others. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

(a) The following behaviors shall be considered Tier III behaviors:

- (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
- (2) Sale or Distribution of any item without authorization;
- (3) Possession or Distribution of obscene or pornographic material on school premises;
- (4) Possession or Use of tobacco;
- (5) Use of alcohol;
- (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
- (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
- (8) Verbal, written, or physical Threat to person or property (including intimidating postures);
- (9) Obscene, seriously offensive, or abusive language or gestures;
- (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;
- (11) Gambling;
- (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
- (13) Engaging in Sexual Acts on school premises or at school-related functions;
- (14) Leaving school without permission;
- (15) Academic Dishonesty;
- (16) Forgery;
- (17) Lying to or giving misleading information to school staff;
- (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via

email or cell phone);

(19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);

(20) Hazing;

(21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;

(22) Possession of tools or instruments which school administrators deem could be used as weapons;

(23) Engaging in reckless behavior that may cause harm to self or others;

(24) Extortion;

(25) Fighting where there is no injury and no weapon;

(26) Trespassing;

(27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;

(28) Documented Pattern of Persistent Tier II Behavior

(b) Disciplinary responses for Tier III behaviors shall include:

(1) Verbal redirection/reprimand;

(2) Teacher/student conference or administrator/student conference;

(3) Parental contact (written or by phone);

(4) Parent conference;

(5) Temporary Removal of Student from Classroom;

(6) Behavior contract;

(7) In-School Disciplinary Action;

(8) Grade reduction for Academic Dishonesty;

(9) On-site Short-Term Suspension with provision of appropriate intervention services;

(10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and

(11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

B2502.4 Tier IV behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the school operation, destroy school property, or cause significant harm to self or

others. Tier IV behaviors result in off-site Suspension.

(a) The following behaviors shall be considered Tier IV behaviors:

- (1) Acts of vandalism, destruction of property, or graffiti (tagging);
- (2) Documented theft of school or personal property without force;
- (3) Interfering with school authorities or participating in a major disruption of the school's operation.
- (4) Tampering with, changing, or altering an official record or document of a school;
- (5) Persistent Harassment based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business;
- (6) Lewd or indecent public behavior or sexual misconduct;
- (7) Sexual Harassment;
- (8) Retaliation for reporting Harassment and Sexual Harassment;
- (9) Fighting which creates substantial risk of or results in minor injury;
- (10) Inciting others to violence or disruption;
- (11) Activating False Alarm;
- (12) Contaminating food;
- (13) Possession of a weapon or replica or imitation of a weapon (including water guns), other than weapons subject to the requirements of the Gun-Free Schools Act;
- (14) Using an article that is not normally considered a weapon to intimidate or threaten another individual;
- (15) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes disruption to the school operation, destroys school property, or causes significant harm to self or others; and
- (16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

(b) Disciplinary responses for Tier IV behaviors include:

- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
- (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

B2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter

that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

(a) The following behaviors shall be considered Tier V behaviors:

- (1) Acts of Exceptional Misconduct at other schools;
- (2) Vandalism/destruction of property over \$500;
- (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
- (4) The Possession or Distribution of alcohol;
- (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 *et seq.* (2001)
- (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
- (7) Possession of fireworks or explosives;
- (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
- (9) Assault or physical attack on student or staff;
- (10) Fighting which results in a serious physical injury;
- (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
- (12) Using an article that is not normally considered a weapon to injure another individual;
- (13) Use, threatened use, or transfer of any weapon;
- (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
- (15) Any behavior that violates the Gun-Free Schools Act;
- (16) Deliberate acts that cause severe physical injury to another person (s).
- (17) Assault with a weapon;
- (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
- (19) Arson;

(20) Biohazard;

(21) Bomb threat;

(22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;

(23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and

(24) Documented Pattern of Persistent Tier IV Behavior.

(b) Disciplinary responses for Tier V behaviors include:

(1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

(2) Expulsion.

(c) Weapons include, but are not limited to:

(1) Weapons enumerated in D.C. Official Code §22-4514 (2001);

(2) Firearms as enumerated in 18 U.S.C. § 921 (2000);

(3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);

(4) Martial arts devices (e.g. Chinese stars, 'nunchucks', etc.);

(5) Air gun, bb gun, paintball gun;

(6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);

(7) Mace, pepper spray, tear gas;

(8) Explosives;

(9) Slingshot;

(10) Bullets;

(11) Chemical weapon; and

(12) Razorblade or razor.

B2503 POLICY FOR DISCIPLINARY ACTIONS

B2503.1 All disciplinary actions shall be effected pursuant to the rules in this Chapter. Disciplinary actions that do not result in removal from the classroom for more than half a school day may be effected through

procedures established by the principal at each school. The principal shall establish such procedures in writing and provide a written copy to students and parents. Procedures shall include a process for appealing such disciplinary responses to the principal.

B2503.2 Principals shall ensure that accurate, appropriate documentation is maintained of all disciplinary actions.

B2503.3 The Chancellor, at his or her discretion, may review and modify any proposed disciplinary action.

B2503.4 Disciplinary responses for all tiers of behavior may be assigned only after consideration of the factors involved in the inappropriate behavior as outlined in § B2500.9, and after consideration of prevention, intervention, and remediation responses as outlined in § B2500.6.

B2503.4 Disciplinary responses for students with disabilities shall be imposed in compliance with § B2510 of these Rules.

B2503.5 Records of all disciplinary actions taken shall be maintained for each student in a student discipline file that is separate from the student's official record and cumulative file. Disciplinary records are primarily for the use of the school that the student attends. Disciplinary records shall be maintained by the school until the student is promoted to the next educational level, e.g., from Elementary to Secondary.

B2504 POLICY FOR SUSPENSIONS AND EXPULSIONS

B2504.1 The policies and procedures described in § B2504 shall apply to all on-site and off-site Suspensions and Expulsions.

B2504.2 Off-site Suspension and Expulsion shall not be used in response to unexcused tardiness or absence.

B2504.3 Principals shall consider all extenuating circumstances before recommending Expulsion.

B2504.4 A student may be suspended prior to a conference pursuant to § B2505 if he or she is contributing to an emergency situation in a school. An emergency situation may exist either because of general conditions in the school (e.g., a series of fires or False Alarms; a manifestly high level of student tension; an increasing number of fights or physical attacks; a large number of abuses of property) or because the behavior of an individual student is so disruptive or dangerous that he/she poses a very real and immediate threat to the health and safety of other members of the school community, or to the ability of the school community or the school or portion thereof to continue normal operations.

B2504.5 A student may be expelled from DCPS only for the commission of an infraction as set forth in § B2502.5.

B2504.6 Students who have been suspended or expelled shall not be eligible to participate in any school function for the duration of their Suspension or Expulsion. The only exceptions that may be authorized by the Chancellor or his or her designee shall be for system-wide testing, or College Board or admission examinations.

B2504.7 Any Suspension, including on-site Suspension, in excess of two (2) in a single semester must be approved by a person designated by the Chancellor.

B2504.8 In accordance with the An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806;

D.C. Official Code § 38-201 *et seq.*), all children of compulsory school age are required to attend school or receive an equivalent education approved by the Office of the State Superintendent of Education.. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to Suspension or Expulsion from DCPS pursuant to this chapter.

B2504.9 The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of a person designated by the Chancellor. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.

B2504.10 A student who has been suspended or expelled shall have access to an Education Plan as follows:
(a) If a student is suspended for fewer than eleven (11) days, the principal initiating the Suspension shall provide an Education Plan that meets the student's educational needs and allows the student to make up any class and homework assignments and exams without penalty.
(b) If a student is suspended for eleven (11) days or more or expelled, the student shall be placed in an Alternative Educational Setting that will allow the student the opportunity to continue to earn credits towards promotion or graduation requirements.

B2504.11 Restitution and/or school service may be required in any case involving school property (e.g., arson, vandalism, burglary, robbery). The amount of restitution or type of school service shall be determined by a person designated by the Chancellor.

B2504.12 If a student's Suspension or Expulsion is for a period exceeding the number of school days remaining in the school year, any remaining part of the term of the Suspension or Expulsion may be applied to the succeeding school year.

B2504.13 Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been contacted by phone or in person and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or guardian of a suspended student cannot be notified by phone or in person, the student must remain at school until the end of the school day.

B2504.14 If the parent or guardian of a student who has been suspended cannot be contacted by phone or in person before the next school day, and the student arrives at school, he or she must remain in the building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. The student may be segregated and must be appropriately supervised during this time. Any such day will count toward fulfilling the term of the student's Suspension.

B2505.15 Except in cases of immediate emergency Suspensions pursuant to § B2504.4, students shall remain in their regular assigned classroom or education setting until the final determination of the Suspension has been made.

B2504.16 For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the

appropriate placement within DCPS.

B2505 PROCEDURES FOR SUSPENSIONS AND EXPULSIONS

B2505.1 Authority to impose Suspensions and Expulsions is as follows:

- (a) On-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.
- (b) Off-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.
- (c) Off-site Medium-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.
- (d) Off-site Long-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.
- (e) Expulsion, except Expulsions for violations relating to the Gun-Free Schools Act, may be proposed in writing by the principal to a person designated by the Chancellor and may be authorized only by the head of the Office of Youth Engagement pursuant to the recommendation of a person designated by the Chancellor.

B2505.2 Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor.

B2505.3 Any student who is to be suspended or expelled shall be given a conference with the school official responsible for proposing the disciplinary action, prior to the Suspension or Expulsion. In the event that a student is suspended pursuant to § 2504.4 due to emergency conditions, the conference shall be held no more than three (3) school days after the Suspension is initiated.

B2505.4 The conference shall include a discussion of the following:

- (a) The grounds for disciplinary action as referred to in this chapter including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;
- (b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, as defined in this chapter, including a summary of the recommended disciplinary action;
- (c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;
- (d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;
- (e) A statement informing the adult student, or minor student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed

discipline; and

(f) The student's rights to an appeal pursuant to § B2505.13 or to a hearing pursuant to § B2505.14.

(g) If the principal is recommending Long-Term Suspension or Expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and a person designated by the Chancellor. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures, appeal rights, the intervention supports available to the student, and the requirements for readmission.

B2505.5 The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.

B2505.6 Students and parents or guardians shall be provided written notice of all Suspensions and Expulsions as follows:

(a) No student may be suspended or expelled, including on-site Suspension, without written notice to the adult student or minor student's parent or guardian.

(b) Following the oral notice provided to parents or guardians pursuant to § B2504.13 verifiable written notice using contact information provided by the parent or guardian (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed Suspensions and Expulsions must be sent to the parent or guardian or to the adult student no later than one (1) school day after the decision by the principal or a person designated by the Chancellor to authorize or propose Suspension or Expulsion.

(c) The notice must inform the parent or guardian of the identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion. Adult students shall receive notification of their infraction in the same manner.

(d) The notice must also include a description of the infraction including a citation of the rule(s) upon which the action is based, a summary of the facts, the length of the proposed Suspension or Expulsion, the principal's recommendation for an Education Plan or Alternative Educational Setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § B2505.14.

(e) A student who has been given a notice of proposed Expulsion may be immediately placed on Suspension in accordance with the rules and procedures set forth in this section.

B2505.7 A principal authorizing Short-Term Suspension shall submit the authorization to a person designated by the Chancellor within one (1) school day.

B2505.8 A principal or school official proposing Medium- or Long-Term Suspension must immediately submit the proposal to a person designated by the Chancellor. A person designated by the Chancellor may authorize the proposed Suspension or modify it to reduce the number of days suspended.

B2505.9 A principal or school official proposing Expulsion shall make a written recommendation for Expulsion to a person designated by the Chancellor no more than one (1) school day after the Expulsion conference. The principal's recommendation may be made based upon an initial recommendation from a teacher or other school official. The recommendation to expel shall be supported by sufficient written documentation to enable a person designated by the Chancellor to make an independent decision regarding Expulsion. A copy of this recommendation and any attendant documentation shall also be provided to the parent or guardian of the student involved.

B2505.10 No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.

B2505.11 In determining whether to propose an Expulsion, a person designated by the Chancellor shall consider the factors enumerated in § B2500.

B2505.12 If a person designated by the Chancellor does not concur with the recommended Expulsion, he or she may propose other disciplinary action.

B2505.13 If a person designated by the Chancellor concurs with the recommended Expulsion, he or she shall immediately forward a written proposal for Expulsion to the head of the Office of Youth Engagement.

B2505.14 A student who has been suspended for fewer than eleven (11) days may appeal the Suspension as follows:

(a) A Short-Term Suspension may be appealed to the principal.

(b) A Medium-Term Suspension may be appealed to a person designated by a Chancellor.

(c) All appeals must be made by the student's parent or guardian or the adult student, either orally or in writing to the principal or person designated by the Chancellor, as appropriate, no later than two (2) school days after receiving the notice of Suspension, and may be made prior to receiving formal written notice of the Suspension. An appeal made orally shall be put in writing by the person receiving the request.

(d) All appeals will be heard by the principal (for Short-Term Suspensions) or a person designated by the Chancellor (for Medium-Term Suspensions) no later than one (1) school day after the appeal is requested. Upon request of the adult student or minor student's parent or guardian, the time for the appeal may be extended up to three (3) school days. The appeal may be held by telephone upon request of the parent or guardian if necessary due to health, work, or childcare.

(e) The student and his or her parent or guardian may present evidence and ask witnesses to speak.

(f) At the conclusion of the conference, the principal or a person designated by the Chancellor, as appropriate, shall render a final decision.

(g) No more than one (1) school day after the conference, the principal or a person designated by the Chancellor, as appropriate, shall give the student and his or her parent or guardian, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings, including the final decision.

B2505.15 A student who has been suspended for eleven (11) days or more or who has been expelled shall have a disciplinary hearing pursuant to the procedures in § 2506.

B2505.16 No more than one (1) school day after authorization or modification of a Long-Term Suspension or Expulsion, the person designated by the Chancellor shall forward the recommended Suspension or Expulsion to the hearing office for immediate scheduling and shall provide notice of the intent to schedule a hearing to the parent or guardian or adult student.

B2505.17 Once a hearing is scheduled by the hearing office, the student shall be placed on Suspension, or in another appropriate placement until the conclusion of the hearing and appeals processes.

B2506 PROCEDURES FOR DISCIPLINARY HEARINGS

B2506.1 Disciplinary hearings shall be held at a time and place that is reasonably convenient to the student and parent or guardian.

B2506.2 For Long-Term Suspensions and Expulsions, the hearing shall be held not more than four (4) school days after a written notice regarding disciplinary action is provided to the parent or guardian or adult student, except that the hearing may be postponed for not more than five (5) school days upon the request of the adult student, minor student's parent or guardian, or his or her representative, where postponement of the hearing is necessary to prepare for the hearing, provide for the hearing, or provide for the attendance of necessary parties, including interpreters. The hearing office shall provide written notice to the parent or guardian or adult student of the date, time, and location of the hearing immediately upon scheduling the hearing. The notice from the hearing office shall state what consequences, if any, result from failure to attend the hearing.

B2506.3 The hearing shall be closed to the public unless the parent or guardian or adult student requests an open hearing.

B2506.4 The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student.

B2506.5 The student, parent or guardian, or representative shall have the right to question any witness or challenge any documentary evidence.

B2506.6 The parent or guardian or adult student shall have the opportunity to present testimony and documentary evidence, including the opportunity to call any witness to present testimony relevant to the disciplinary action or other school system recommendation. The right to call witnesses shall include the right to require the presence of any involved school official.

B2506.7 It shall be the burden of the DCPS to show by a preponderance of the evidence that the student did commit the infraction(s) upon which the disciplinary action is based.

B2506.8 The hearing officer shall ensure that all due process procedures have been followed or waived.

B2506.9 The hearing officer may question any witness or party and shall examine all documentary evidence.

B2506.10 The hearing shall not be conducted according to the rules of evidence. However, the hearing officer may exclude any testimony or evidence that is irrelevant or repetitive.

B2506.11 The hearing officer shall ensure that the hearing is conducted in a fair and orderly manner and shall have the authority to exclude any party or other person from the hearing on the grounds of substantial interference or obstruction of the orderly hearing process.

B2506.12 The hearing officer shall make an official electronic audio recording of the hearing, which shall constitute the official record thereof. Upon request, a copy of the recording shall be made available to the

parent or guardian, adult student, or representative and the local school principal. This provision shall not preclude a parent or guardian or representative from also recording or transcribing the hearing at his or her expense.

B2506.13 The principal or school official shall indicate a recommendation of the school system for the duration of the off-site placement.

B2507 HEARING OFFICER RECOMMENDATION

B2507.1 Within one (1) school day of the conclusion of a disciplinary hearing, the hearing officer shall issue a written recommendation which shall include the following:

- (a) A statement of the facts, as determined from the testimony and evidence presented at the hearing;
- (b) A conclusion as to whether the required due process procedures have been properly followed or waived;
- (c) A conclusion as to whether the student committed the infraction(s) upon which the disciplinary action is based; and
- (d) A determination regarding the appropriateness of the proposed disciplinary action or an order for a modification thereof, including consideration of the factors enumerated in § B2500.8 and explicit justification for any recommended modification.

B2507.2 For Long-Term Suspensions, a person designated by the Chancellor shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.

B2507.3 For Expulsions, the head of the Office of Youth Engagement shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.

B2507.4 A copy of the written determination provided by a person designated by the Chancellor or by the head of the Office of Youth Engagement shall be given or mailed, within twenty-four (B24) hours, to the adult student, the minor student's parent or guardian, and their representatives, if any.

B2507.5 Additional copies of the determination by a person designated by the Chancellor or the head of the Office of Youth Engagement shall be sent, within twenty-four (B24) hours, to the principal or other school official in charge of the school or program in which the student is enrolled, and retained in the files of the student hearing office.

B2507.6 If the hearing officer recommends disciplinary action is not warranted, based on the fact that the student did not violate any DCPS rule or policy, the determination shall include an order to destroy all school records regarding the disciplinary action, including any reports that relate to the incident upon which the disciplinary action was proposed, insofar as those reports individually identify the student. If the hearing officer determines that disciplinary action is not warranted and either: (a) fails to state whether a DCPS rule or policy was violated, or, (b) states that a DCPS rule or policy was violated but nevertheless finds the disciplinary action to be unwarranted, the school may maintain documents concerning the alleged infraction until the conclusion of the school year immediately following the incident.

B2507.7 Long-Term Suspension may be appealed directly to the head of the Office of Youth Engagement:

- (a) A parent or guardian, or adult student who wishes to appeal a Long-Term Suspension to the head of the Office of Youth Engagement must submit a written or oral request to appeal the proposed Long-Term

Suspension within five (5) school days of receiving notification of the Long-Term Suspension. If the request is made orally, it shall be recorded in writing by the person receiving the request.

(b) Upon receipt of an appeal, the head of the Office of Youth Engagement shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.

(c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.

(d) No more than two (B2) school days after the conclusion of the conference, the head of the Office of Youth Engagement shall render a final decision. The head of the Office of Youth Engagement shall provide the parent or guardian, or adult student, and a person designated by the Chancellor, a written summary of the conference proceedings and decision.

B2507.8 If the head of the Office of Youth Engagement has authorized Expulsion for violating the Gun-Free Schools Act, the parent or guardian or adult student may appeal the decision to the Chancellor pursuant to the process outlined in § B2507.9. The decision of the Chancellor shall be final and shall be provided in writing to the parent or guardian, or adult student, person designated by the Chancellor, and the principal of the school from which the student was expelled.

B2507.8 Notwithstanding the other provisions of this section, a person designated by the Chancellor may, at his or her discretion, initiate Expulsion action without the recommendation of a principal or designee.

B2507.9 An Expulsion may be appealed directly to the Chancellor.

(a) A parent or guardian, or adult student who wishes to appeal an Expulsion directly to the Chancellor must submit a written or oral request to appeal the proposal within five (5) school days of receiving notification of the Expulsion. If the request is made orally, it shall be recorded in writing by the person receiving the request.

(b) Upon receipt of an appeal, the Chancellor or his/her designee shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.

(c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.

(d) No more than two (B2) school days after the conclusion of the conference, the Chancellor shall render a final decision. The Chancellor shall provide the parent or guardian, or adult student, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings and his or her final decision.

B2508 REVIEW BY THE CHANCELLOR

B2508.1 The Chancellor may review, at his or her discretion, any proposed disciplinary action. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement

ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.

B2508.2 With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including Expulsion. The Chancellor shall provide written justification for any modification of disciplinary action.

B2509 RE-ENTRY FOLLOWING EXPULSION

B2509.1 Prior to the conclusion of an Expulsion, a person designated by the Chancellor shall hold a conference with the student and the student's parent or guardian to determine appropriate school placement for the student.

B2509.2 The conference shall be held according to guidelines in § B2505, and shall include discussion of the following topics:

- (a) The student's activities while under disciplinary action;
- (b) The steps the student will take to avoid a subsequent disciplinary action;
- (c) Support required by the student to avoid subsequent disciplinary action; and
- (d) Any other pertinent circumstances.

B2509.3 Effort shall be made to return the student to his or her previous school, unless a person designated by the Chancellor reasonably concludes based on the conference that another school is a more appropriate setting.

B2509.4 The student and his or her parent or guardian shall be informed of the school placement no more than one school day after the conference, and the registration/enrollment process shall be facilitated as smoothly and quickly as possible thereafter.

B2509.5 The principal of the receiving school shall ensure the returning student receives an appropriate academic program, as well as services to ensure a smooth transition back into the general school population (e.g., SST meeting, counseling, etc.).

B2510 PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY

B2510.1 Nothing herein shall exempt a student with a disability from disciplinary action.

B2510.2 In initiating disciplinary procedures applicable to all children, DCPS must ensure that the special education and disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. Such documentation may include, but not be limited to (with any required permission from parent/guardian): the student's current IEP, discipline file, cumulative file, anecdotal records from teachers or other school personnel, reports or recommendations from health or mental health clinicians.

B2510.3 The removal of a student with a disability from his or her current placement for more than ten (10)

school days for disciplinary reasons shall require that a determination be made as to whether the subject behavior is related to the student's disability.

B2510.4 If the result of the review is a determination that the behavior of the child with a disability was not a manifestation of the child's disability, the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which they would be applied to children without disabilities

B2510.5 DCPS may order an immediate removal of a student with a disability from his or her current placement:

(a) To an appropriate interim Alternative Educational Setting, another setting, or Suspension, for not more than ten (10) consecutive school days (to the extent such alternatives would be applied to children without disabilities); and

(b) To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, up to but not exceeding forty-five (45) days if:

(1) The student carries a weapon to school or to a school function;

(2) The student knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance while at school or at a school function; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction DCPS.

B2510.6 DCPS must make a free appropriate public education available to all eligible children with disabilities, including children with disabilities who have been suspended or expelled from school. When a student with a disability is removed from his or her current placement for more than ten (10) school days for disciplinary reasons, DCPS must continue to provide the specialized instruction and related services that are specified on the student's IEP.

B2510.7 Any interim alternative educational setting in which a child is placed must:

(a) Be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and

(b) Include services and modifications designed to address the behavior described in § B2511.B2 or § B2511.3 so that it does not recur.

B2510.8 If a disciplinary action is contemplated as described in § B2511.B2 or § B2511.3 for a behavior of a child with a disability described in either of those subsections, or if a proposed disciplinary action involves removal of a student with a disability from his or her current placement for more than ten (10) consecutive school days:

(a) Not later than the date on which the decision to take that action is made, the parents must be notified of that decision and of all procedural safeguards accorded by law; and

(b) Immediately, if possible, but in no case later than ten (10) school days after the date on which the

decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

B2510.9 Within ten (10) school days of any disciplinary decision to remove a student with a disability from his or her current placement, DCPS, the parent, and relevant members of the child's IEP Team (as determined by the parent and the DCPS) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine:

(a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(b) If the conduct in question was the direct result of DCPS's failure to implement the IEP.

B2510.10 The conduct must be determined to be a manifestation of the child's disability if DCPS, the parent, and relevant members of the child's IEP Team determine that a condition in either 34 CFR 300.530(e)(1)(i) or (1)(ii) was met.

B2510.11 If the DCPS, the parent, and relevant members of the child's IEP Team determine the condition described in 34 CFR 300.530(e)(1)(ii) was met, the DCPS must take immediate steps to remedy those deficiencies.

B2510.12 In carrying out a review, the IEP Team may determine that the behavior of the child was not a manifestation of such child's disability only if the IEP Team:

(a) First considers, in terms of the behavior subject to disciplinary action, all relevant information, including:

(1) Evaluation and diagnostic and results, or other relevant information supplied by the parents of the child;

(2) Observations of the child;

(3) The child's IEP and placement; and

(4) Any other material deemed relevant by the IEP Team, including, but not limited to, school progress reports, anecdotal notes and facts related to disciplinary action taken by administrative personnel; and

(b) Then determines that:

(1) In relationship to the behavior subject to disciplinary action, the child's IEP, and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;

(2) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and

(3) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

B2510.13 Either before or not later than ten (10) consecutive school days after taking a disciplinary action described in § B2510.2:

(a) If DCPS did not conduct a functional behavioral assessment and implement a behavioral intervention plan for such child before the behavior that resulted in the Suspension described above, DCPS must convene an IEP meeting to develop an assessment plan to address that behavior; or

B2510.14 If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the child's disability or with any decision regarding placement, the parent may request a hearing.

B2510.15 DCPS must arrange for an expedited hearing, which must occur within twenty (20) school days of the date the complaint requesting the hearing is filed, in any case described in this section when requested by a parent.

B2510.16 In reviewing a decision with respect to the manifestation determination, the hearing officer must determine whether DCPS has demonstrated that the child's behavior was not a manifestation of such child's disability.

B2510.17 A disciplinary hearing officer may recommend the removal of a student with a disability from his or her current placement for not more than forty-five (45) days if the hearing officer:

(a) Determines that DCPS has demonstrated by substantial evidence that maintaining the current placement of such child is substantially likely to result in injury to the child or to others;

(b) Considers the appropriateness of the child's current placement;

(c) Considers whether DCPS has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and

(d) Determines that the interim alternative educational setting meets the requirements described in § B2510.14 above.

B2510.18 In recommending the removal of a student with a disability from his or her current placement removal of a student with a disability from his or her current placement to an alternative education setting for disciplinary reasons, the hearing officer must apply the standards set out in § B2510.17 above.

B2510.19 When a parent requests a hearing regarding a disciplinary action to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in § B2510.5 (i.e., 45 days), whichever occurs first, unless the parent and DCPS agree otherwise.

B2510.20 If a child is in an interim alternative educational setting for disciplinary reasons and school personnel propose to change the child's educational placement after expiration of the interim Alternative Setting for disciplinary reasons, during the pendency of any proceeding to challenge the proposed change in placement, the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in § B2510.21, below.

B2510.21 If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, DCPS may request an expedited hearing.

B2510.22 A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of DCPS, including any behavior described in this chapter, may assert any of the applicable protections provided for in the Individuals with Disabilities Education Improvement Act, as amended, if DCPS had knowledge (as determined in accordance with § B2510.23 below), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

B2510.23 DCPS is deemed to have knowledge that a child is a child with a disability if:

(a) The parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to supervisory or administrative personnel of [DCPS], or a teacher of the child, that the child is in need of special education and related services;

(c) The parent of the child has requested an evaluation of the child; or

(d) The teacher of the child or other personnel of DCPS has expressed specific concerns about a pattern of behavior or performance of the child to the Director of Special Education or to other DCPS personnel.

B2510.24 DCPS is deemed not to have knowledge that a child is a child with a disability if: the parent of the child has not allowed an evaluation of the child pursuant to 34 CFR 300.300 through 300.311 or has refused services under Part B of the IDEA; or the child has been evaluated in accordance with 34 CFR 300.300 through 300.311 and determined to not be a child with a disability under Part B of the IDEA.

B2510.25 If DCPS does not have knowledge that a child is a child with a disability in accordance with §

B2510.23 prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

B2510.26 If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by DCPS and information provided by parents, DCPS must provide special education and related services in accordance with the relevant provisions of the Individuals with Disabilities Education Improvement Act, as amended, except that, pending the results of the evaluation, the child must remain in the educational placement determined by school authorities.

B2510.27 Nothing in the Individuals with Disabilities Education Improvement Act, as amended, shall be construed to prevent D.C. law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

B2510.28 Nothing in the Individuals with Disabilities Education Improvement Act, as amended, shall be construed to prohibit DCPS from reporting a crime committed by a child with a disability to appropriate authorities. In reporting a crime committed by a child with a disability to appropriate authorities, DCPS must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to which it reports the crime.

B2599 DEFINITIONS

B2599.1 Unless the same term or phrase is defined in § B2599.2, the definitions set forth in § B2099 are

incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

B2599.2 As used in this chapter, the following terms and phrases shall have the meanings ascribed:

“Alternative Educational Setting” - an educational program other than that in which the student was placed prior to disciplinary action. **“Academic Dishonesty”** - any conduct that unfairly influences academic outcomes including:

(a) Plagiarism including the adoption or reproduction of ideas, words, or statements of another person or source without giving acknowledgment or credit to the person or source;

(b) Cheating including any attempt to give or obtain assistance in with a test or examination, without permission or acknowledgment;

(c) Deception including giving false information to instructional staff— for example, a student giving a false excuse for missing a deadline or making a false claim that assignment was submitted;

(d) Fabrication including altering data, information, and documents affecting any student’s academic records; forging signatures of authorized instructional staff or falsifying information on an official school document, i.e. report card, letter of permission, petition, class schedule, ID card, or any other official school document;

(e) Sabotage including creating situations to prevent others from completing their work. For example, destroying another student’s work, tampering with the experiments of other students; and

(f) Unauthorized Access including gaining unauthorized access to computer systems, academic or administrative records and information; viewing or altering any records, modifying computer programs or systems, releasing or distributing information gained through unauthorized access.

“Acts of Exceptional Misconduct” - any activity that would constitute a felony, gross misdemeanor, or misdemeanor under District or federal law

“Assault” - being physically violent, using unwarranted force, or demonstrating a deliberate and immediate intent to be physically violent towards another. Assault does not include: 1) incidental touching unless it is flagrant, purposeful, repeated, or results in the threat of imminent harm; or 2) Self-Defense or the defense of someone else who is being assaulted if the force used in defense is reasonable in response to the Assault.

“Bullying”-repeated intentional behavior that occurs in order to intentionally harm others through verbal or non verbal Harassment, physical Assault, or other more subtle methods of coercion. Such behavior may include, but is not limited to, manipulation, teasing, taunting, threatening, hitting, stealing, destroying personal property, sending threatening/abusive emails, text messages, or other electronic communications.

“Distribution” - the transfer to any other person, with or without the exchange of money or other valuables.

“DCPS” - means the District of Columbia Public Schools.

“Documented Pattern of Persistent Behavior” – repeated commission of the same or similar infraction. Behavioral occurrences on a single school day (for Elementary students) or in a single class period (for Secondary students) are considered a single infraction. To impose disciplinary action using this standard, prior infractions must be documented no later than one school day after than the occurrence of each

infraction. Only infractions occurring within the current school year shall be considered in the assessment of whether a pattern of behavior exists.

“Education Plan” - includes instructional materials and written work sufficient to allow a student the opportunity to earn grades and credits of the same value as those earned by students attending classes. The plan shall also include information regarding accessing support services, such as counseling, mental health services, etc.

“Elementary” – grades preK-grade 5

“Expulsion” - the denial of the right of a student to attend any DCPS School or program, including all classes and school activities, except DCPS Alternative Educational Settings, for one (1) calendar year.

“Extortion” or “blackmail” - obtaining, or attempting to obtain, money or property from another person, with or without that person’s consent, induced by wrongful use of force or intimidation, or the Threat thereof.

“False Alarm” - triggering a fire alarm or initiating a report of fire or emergency without valid cause, or accessory to this offense.

“Fighting” - engaging in or provoking physical contact involving anger or hostility. Fighting includes, but is not limited to, the following:

- (a) Engaging in mutual physical contact involving anger or hostility;
- (b) Teasing, harassing, threatening or intimidating others in a manner that results in physical contact involving anger or hostility;
- (c) Physical retaliation for teasing, harassing, threatening, or intimidating behavior; or
- (d) Verbally inciting or physically supporting a fight through one’s encouragement or presence.

“Forgery” - forging notes or letters from parents, guardians, teachers, staff members, or office personnel; or the falsification of travel plans or sign-out designations.

“Gambling” - playing cards, dice, or games of chance for money or other things of value.

“Gang” - a group of individuals that are involved in illegal, intimidating or harassing conduct.

“Gun-Free Schools Act” – Federal law requiring states to have a law in place requiring the Expulsion of a student who is found to have brought a firearm to school, 20 U.S.C. § 7151.

“Hazing” - actions taken against a person for the purpose of being initiated into a group that endangers the mental or physical health, well being or safety of a student, and results in humiliation, embarrassment, ridicule, intimidation or shame.

“Harassment” - verbal or physical conduct or communication relating to an individual's actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, in a manner that denies or limits a student's ability to participate in or benefit

from an educational program or activity or creates an intimidating, threatening or abusive environment for students, employees, or others in the school environment, or interferes with employees' performance of their job duties or the effective performance of the school-related functions of others. Harassment also includes written or verbal communications that are electronically transmitted with the intention of creating or causing the same harm described above.

“In-School Disciplinary Action” –disciplinary actions such as after-school detention, loss of privileges (including recess), exclusion from extracurricular activities, written reflection, conflict resolution, mediation, or similar actions of short duration that do not result in the student’s loss of academic instruction time.

“Inappropriate Use of DCPS Computer or Network”- any use of DCPS computers or networks in violation of the DCPS Student Internet Safety and Use Policy.

“IEP” – an individualized education program as that term is defined in § 602 of the Individuals with Disabilities Education Act, approved June 4, 1997 (111 Stat. 37; 20 U.S.C. § 1401).

“Intentional Misuse of School Equipment/Supplies/Facilities” - deliberately misusing school equipment, supplies, or facilities, including failure to follow safety rules.

“Limited or no-English proficiency” - the inability to adequately understand or to express oneself in the spoken or written English language

“Long-Term Suspension” – Suspension for eleven (11) to ninety (90) school days.

“Medium-Term Suspension” – Suspension for six (6) to ten (10) school days.

“Possession” - knowingly carrying or having an item on one’s person, or exercising control over an item, that is prohibited from being on school grounds, that is either in the possession of a third-party or has been intentionally placed in a location on or near school property for the purpose of disposing of the item or retrieving the item at a future time.

“Secondary” - grade 6 or higher.

“Self-Defense” - defensive behavior that occurs while an Assault is being inflicted on oneself or another, and is not more forceful than absolutely needed to deflect the violence suffered and prevent continuing injury or harm to oneself or the other person. Examples of Self-Defense are deflecting blows without returning them and holding or holding back an attacker to keep him/her from continuing to Assault. Defensive behavior that is considerably more forceful than needed for legitimate Self-Defense may be considered Assault.

“Sexual act” - any sexual act committed among two consenting parties. **“Sexual Harassment”** - deliberately harassing another person for sexual reasons or in a sexualized manner with unwanted attention, touching, or verbal comments such that the person is uncomfortable, intimidated, or threatened by the behavior.

“Short-Term Suspension” – on-site or off-site Suspension for one (1) to five (5) school days for Secondary students or one (1) to three (3) school days for Elementary students.

“Suspension” - the denial of the right of a student to attend any DCPS school or program, including all classes and school activities, except in an approved Alternative Educational Setting, in no event exceeding ninety (90) school days pursuant to the provisions of this chapter.

“Temporary Removal of Student from Classroom” – removal from the student’s classroom for less than half a school day, not to extend beyond the time of dismissal on the day of the disciplinary action. During any such removal, the student shall be supervised and provided with instructional materials.

“Threat” - the communication of an intention to intimidate, harass or inflict violence, harm or terror on an individual or group of individuals, directly or indirectly, whether by physical, verbal, written, telephone, or electronic actions, which cause the other person to believe his or her life or safety, or property, is in danger.

“Trespassing” - being present on school property without permission of school authorities. This includes entering any school district property, except an approved Alternative Educational Setting, while serving an off-site Suspension or Expulsion or attending any school function at any location while serving a Suspension or Expulsion in contravention of § B2504.6.

“Use”– when referring to alcohol, marijuana or other illegal drugs, or prescription medication, means a finding, based on reasonable evidence, that a student was found to have consumed such substances without proper authorization, or that a student was found, based on reasonable evidence, to be or have been under the influence of same while under the jurisdiction of DCPS authority.

DISTRICT OF COLUMBIA REGISTER VOL. 56 - NO. 33 AUGUST 14 2009 006411

Landmark Cases

Burlington School Committee v. Massachusetts Department of Education, 471 U.S. 359 (1985): Court held that parent was entitled to reimbursement from school board for unilaterally placing child in private school because the public school did not have the necessary support systems for the child.

Goss v. Lopez, 419 U.S. 565 (1975): Court held that a school suspension without a hearing violated the due process clause of the 14th Amendment.

Honig v. Doe, 484 U.S. 305 (1998): Established protections applicable to disabled children, which includes emotionally disturbed children.

Mills v. Board of Education of District of Columbia, 348 F. Supp 866 (D. DC 1972): Court held that free public educational services, or a suitable private alternative paid for by the board of education, must be delivered based on student's individual needs, regardless of the cost to the school board.

APPENDIX A:

Chief of Schools Guidance Regarding Select Chapter 25 Provisions and Disciplinary Responses

Issued by: Office of the Chief of Schools/Youth Engagement (COS/OYE)

August 2015

Chief of Schools Guidance Regarding Select Chapter 25 Provisions, Behavior and Disciplinary Responses (version 1.0)

Responsible Office(s):

Office of the Chief of Schools/Youth Engagement (COS/OYE)

Discusses District of Columbia Municipal Regulations B2500 approved by City Council August 2009

1200 First Street, NE | Washington, DC 20002 | T 202.442.5885 | F 202.442.5026 | dcps.dc.gov

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Table of Contents

- 1. Message from the Chief of Schools 3
- 2. The Need/Background 4
- 3. Philosophy and Approach 5
- 4. Summary of Clarified Behaviors..... 6
- 5. Clarifying Behavior Examples 7
- 6. Privacy and Confidentiality 12
- 7. Frequently Asked Questions 13

District of Columbia Public Schools | August 2015 Page 2
of 13

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Message from the Chief of Schools

We are very excited to announce the completion of a yearlong effort aimed at eliminating ambiguity and providing clarity regarding Subtitle 5-B, Chapter 25 of the District of Columbia Municipal Regulations (DCMR) – Student Discipline (“Chapter 25”). The guidance that follows is the direct result of an ongoing internal work group comprised of school chiefs, superintendents, principals, deans, and several offices within central administration, including the Office of Specialized Instruction, School Operations, and the Office of Youth Engagement. Our intention is to ensure disciplinary responses are as objective and measured as possible, which will ensure appropriate responses are assigned to each behavior.

As a school district, we continue to focus on implementing an intentional approach to addressing student behavior; including how and when we impose the more severe disciplinary responses (e.g. long-term suspension). This requires a high level of commitment by both central office and school-based officials. In a continuing collaborative effort to support innovative ways to address negative behavior, we are adjusting our approach to how DCPS responds to student behavior. This includes both the disciplinary responses to negative

behaviors and how positive behavior is acknowledged and recognized.

With this revised approach to behavior, we are making a definitive statement that we will make every effort possible to work with our students to address challenging behaviors and give each of them the opportunity to have full access to the world-class education that DCPS provides.

Please make every effort to not only digest this guidance, but to also ensure that, moving forward, it is directly applied by you and others.

District of Columbia Public Schools | August 2015 Page 3 of 13

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

The Need/Background

Chapter 25 was enacted in August 2009 after an extensive internal and external collaboration aimed at reviewing and revising DCPS policies that address student behaviors and appropriate disciplinary responses. The underlying purpose of that revision was to ensure proper application of student discipline rules and due process protections for students and families.

Since implementation of Chapter 25 in 2009, the Office of Youth Engagement has received feedback from principals, teachers, students, parents, educational advocates and other community stakeholders. A majority of that feedback recommended that DCPS clarify certain language in Chapter 25 and provide specific student behavior examples that will encourage school officials to more narrowly apply disciplinary rules to student behaviors.

Accordingly, a behavior should align with one of the examples provided in this document for discipline to be considered applicable. In addition, the Student Behavior Tracker (SBT) which is the official data base of record for DCPS regarding discipline and due process, will include drop boxes ensuring each clarifying example is provided during incident entry moving forward.

District of Columbia Public Schools | August 2015 Page 4 of 13

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Philosophy and Approach

DCPS PHILOSOPHY AND APPROACH TO STUDENT BEHAVIOR AND DISCIPLINE SAFE AND EFFECTIVE LEARNING ENVIRONMENT

DCPS encourages school officials to implement re-direction, mediation, parent involvement, counseling, or other appropriate alternatives to suspension when responding to student behavior issues, particularly when responding to non-violent negative behaviors. The only exception is when a negative behavior is so severe that it can't be addressed through one of these intervention alternatives. We encourage schools to work hard to ensure all intervention alternatives have been exhausted when proposing a suspension for a Tier III or higher behavior. Moreover, it is each school's responsibility to ensure that the default philosophy and approach moving forward is to always consider entering a behavior in the lowest tier possible and only consider applying tier behaviors which automatically result in suspension when absolutely necessary.

District of Columbia Public Schools | August 2015 Page 5 of 13

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Summary of Clarified Behaviors

The following summarizes commonly seen Chapter 25 behaviors that we seek to clarify in the following pages. Nothing in this document should be construed as a revision of Chapter 25 in any way.

Rather, this document is intended to provide guidance to principals and other staff who are tasked with applying these disciplinary regulations in schools.

B2502.2 - Tier II behaviors

(4) Non-compliance with approved dress code/uniform policy

B2502.3 - Tier III behaviors

(5) Use of Alcohol

(6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia

(7) Unauthorized Possession, Use, or Distribution of over-the-counter medication (9) Obscene, seriously offensive, or abusive language or gestures (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity (23) Engaging in reckless behavior that may cause harm to self or others

(27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others

B2502.4 - Tier IV behaviors

(6) Lewd or indecent public behavior of sexual misconduct (7) Sexual Harassment (9) Fighting which creates substantial risk or results in minor injury (10) Inciting others to violence or disruption B2502.5 - Tier V behaviors

(9) Assault or physical attack on student or staff (10) Fighting which results in a serious physical injury (12) Using an article not normally considered a weapon to injure another individual

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Clarifying Behavior Examples

Below, please find the text of Tier II, III, IV, and V behaviors. For each infraction, DCPS has provided examples that are commonly seen in schools. When you complete a Student Behavior Tracker you should choose the example that is closest to the one listed below. If none of the infraction options match exactly, please select “other” and you will be prompted to enter a comment that explains the student’s behavior. Where appropriate, DCPS has also provided some practical tips for working through the disciplinary provisions of Chapter 25. This information should be construed as guidance only; none of the information in this packet rewrites or replaces the disciplinary provisions in Chapter 25.

B2502.2 - Tier II behaviors

Tier II behaviors are those behaviors not specifically enumerated in any other tier in Chapter 25 that **cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others**. Tier II behaviors result in school-based and administrative disciplinary responses.

B2502.2(a)(4)

Non-compliance with approved dress code/uniform policy.

At schools, the examples we see most often are when the student

Refuses to comply with the school’s dress code;

- Is provided a uniform and refuses to wear it;
- Refuses to pull up their pants; or
- Refuses to take off a hat or headphones.

B2502.3 - Tier III behaviors

Tier III behaviors are those behaviors not specifically enumerated in any other tier in Chapter 25 that **cause significant disruption to the academic environment or cause harm to self or others**. In addition to lesser consequences, Tier III behaviors may result in either on-site or off-site Suspension.

B2502.3(a)(5) Use of alcohol

B2502.3(a)(6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia.

B2502.3(a)(7) Unauthorized possession, use, or distribution of over-the-counter medication.

These three behaviors should be applied when a school official actually observes the student using alcohol or drugs and/or a reasonable judgment is made that the student has used alcohol or drugs prior to arriving at the school.

A few pointers:

- Wherever possible without endangering the safety of others, the impaired student should be allowed in the building and the school nurse should implement the “sobriety protocol.”
- You should immediately document in the student’s disciplinary file the observations that lead you to believe that the student is under the influence.

B2502.3(a)(9) Obscene, seriously offensive, or abusive language or gestures. (See also Tier IV for clarification regarding sexual harassment).

At schools, the examples we see most often are

- Any type of grabbing of one’s private area;
- Use of middle finger to indicate an expletive;
- Use of arm to indicate an expletive;
- Flicking of chin to indicate an expletive;
- Singing a song/lyrics with expletive or vulgar language; and
- Sexually suggestive dancing/pranks, grinding, or pumping.

B2502.3(a)(10) Causing disruption on school property or at any DCPS-sponsored or supervised activity.

At schools, the examples we see most often are

- Banging on lockers or other surfaces in a loud manner;
- Peeping in window;
- Yelling loudly;
- Throwing objects;

- Creating loud and disturbing noises;
- Refusing to comply with multiple requests to go to class;
- Disrupting the teacher, substitute teacher or another staff member in a manner that inhibits them from delivering instruction to their class; or
- Using social media in a manner that results in a disruption to the school environment.

B2502.3(a)(23) Engaging in reckless behavior that may cause harm to self or others.

At schools, the examples we see most often are

- Pulling a chair from under another individual;
- Throwing chairs and other large objects;
- Play fighting;
- Fake jumping/attacking someone;
- Running/chasing others in the hallway; or
- Any prank that could or does lead to injury.

B2502.3(a)(27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others.

At schools, the examples we see most often are

While in the hallway

- Refusing to go to class after multiple requests;
- Intentionally running away from a staff member to avoid interaction or re-direction;
- Banging on lockers;
- Peeping in windows;
- Yelling loudly;
- Throwing objects; or
- Creating loud and disturbing noises.

While in the classroom

- Restricting the teacher from delivering instruction to their class;
- Creating loud and disturbing noises;
- Banging an object; or
- Banging on an object.

B2502.4 - Tier IV behaviors

Tier IV behaviors are those behaviors not specifically enumerated in any other tier in Chapter 25 that **cause**

disruption to the school operation, destroy school property, or cause significant harm to self or others. Tier IV behaviors result in off-site Suspension.

B2502.4(a)(6) Lewd or indecent public behavior or sexual misconduct.

At schools, the examples we see most often are

- Exposing genitalia;
- Exposing buttocks;
- Masturbation;
- Consensual sex;
- Group sex;
- Filming and/or re-broadcast of any sexual activity;
- Groping/touching, fondling; or
- Sexting (unwanted viewing, exposure or targeting).

B2502.4(a)(7) Sexual Harassment (Defined in the Chapter 25 definitions as deliberately harassing another person for sexual reasons or in a sexualized manner with unwanted attention, touching, or verbal comments such that the person is uncomfortable, intimidated, or threatened by the behavior).

At schools, the examples we see most often are

- Unwelcome sexual advances;
- Unwelcome requests for sexual favors; or
- Sexting/sending unwanted suggestive images including
 - Naked pictures;
 - Pictures of genitalia;
 - Pictures or video of a sexual nature; and
 - Sexually provocative meme's.

B2502.4(a)(9) Fighting which creates substantial risk of or results in minor injury.

At schools, the examples we see most often are

- Fighting that requires any type of medical attention from the school nurse, but does not require medical attention from emergency personnel (i.e. DC FEMS); or
- Group fighting (more than two individuals fighting).

B2502.4(a)(10) Inciting others to violence or disruption.

At schools, the examples we see most often are

- Verbally (by written, spoken, or electronic communication) persuading persons to harm others; or
- Verbally (by written, spoken, or electronic communication) persuading persons to hinder school operations.

B2502.5 - Tier V behaviors

Tier V behaviors are those behaviors not specifically enumerated in any other tier in Chapter 25 that **are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others**. Tier IV behaviors result in off-site Suspension or Expulsion.

B2502.5(a)(9) Assault or physical attack on student or staff.

At schools, the examples we see most often are

- Choking;
- Wrestling;
- Hitting;
- Spitting; or
- Other physical violence in which no weapon is involved.

B2502.5(a)(10) Fighting which results in a serious physical injury.

At schools, the example we see most often is fighting that requires medical attention from emergency personnel (i.e. DC FEMS).

B2502.5(a)(12) Using an article not normally considered a weapon to cause harm to another individual.

At schools, the examples we see most often are

- Using a pen/pencil to stab another (inflict harm);
- Throwing a book that hits and harms another;
- Using a bat or similar object to injure another; or
- Using any type of solid object to inflict harm.

Again, the above examples are meant to provide illustrations of the most common Tier II, III, IV, and V behaviors that we see in schools. This list is by no means meant to be exhaustive. It is being provided for general guidance only.

Privacy and Confidentiality

Outside Media and Community Communication

School officials are obligated to comply with the Family Educational Rights and Privacy Act (FERPA), a federal law that protects the privacy of student educational records, which includes information from student disciplinary matters. Accordingly, all media inquiries regarding student discipline matters should be directed to the DCPS Press Secretary at (202) 535-1096. All other inquiries should be directed to the school principal.

District of Columbia Public Schools | August 2015 Page 12 of 13

Chief of Schools Clarification Regarding Select Chapter 25 Provisions, Behavior & Disciplinary Responses

Frequently Asked Questions

Frequently Asked Questions

Q- What is Chapter 25?

A- Chapter 25 is the discipline regulation for DCPS. It is part of the District of Columbia Municipal Regulations (DCMR)

Q- How does it affect my child?

A- Chapter 25 provides schools parameters for how they can administer discipline to students K-12.

Q- Is this a change to the regulation/law?

A- No. We are only providing guidance for how school officials should interpret the regulations and administer discipline, particularly suspensions that result in off-site suspensions.

Q- Does Chapter 25 apply to charter schools as well?

A- No, Chapter 25 only applies to DCPS.

Q- Where can I get a copy of Chapter 25?

A- Yes, It's available online. Here is the link. <http://dcps.dc.gov/page/attendance-and-behavior>

Q- Why is DCPS providing this guidance?

A- DCPS consistently seeks to maximize positive interactions between staff and students. In an effort to ensure that every student is given every chance to succeed, we are focusing on approaches to redirecting negative behavior beyond simply suspending a student off-site.

District of Columbia Public Schools | August 2015 Page 13 of 13