



# **District of Columbia Compilation of School Discipline Laws and Regulations**

Prepared: April 3, 2019

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of April 2019. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

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## ***District of Columbia Codes Cited***

### **Code of the District of Columbia**

#### **Division I. Government of District.**

#### **Title 2. Government Administration**

#### **Chapter 15. Youth Affairs**

#### **Subchapter II-C. Youth Bullying Prevention**

- [§ 2-1535.01.](#) Definitions
- [§ 2-1535.02.](#) Bullying prevention task force
- [§ 2-1535.03.](#) Bullying prevention policy
- [§ 2-1535.04.](#) Secondary investigation appeal
- [§ 2-1535.05.](#) Retaliation
- [§ 2-1535.06.](#) Bullying prevention programs
- [§ 2-1535.07.](#) Reporting requirement
- [§ 2-1535.08.](#) Availability of other remedies
- [§ 2-1535.09.](#) Rules

#### **Title 5. Police, Firefighters, Medical Examiner, and Forensic Sciences**

#### **Chapter 1. Metropolitan Police**

#### **Subchapter XVI-A. Contracting Procedures for Public School Security**

- [§ 5-132.02.](#) Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division

#### **Division IV. Criminal law and procedure and prisoners.**

#### **Title 22. Criminal Offenses and Penalties**

#### **Subtitle VI. Regulation and Possession of Weapons**

#### **Chapter 45. Weapons and Possession of Weapons**

- [§ 22-4502.01.](#) Gun free zones; enhanced penalty

#### **Division VI. Education, Libraries, and Public Institutions.**

#### **Title 38. Educational Institutions**

#### **Subtitle 1. Public Education - Primary and Secondary**

#### **Chapter 1A. District of Columbia Public Schools**

- [§ 38-172.](#) Mayor's authority; rulemaking
- [§ 38-174.](#) Chancellor; appointment; duties

## **Chapter 2. Compulsory School Attendance and Expulsion**

### **Subchapter I. School Attendance**

#### **Part A. Definitions**

[§ 38-201.](#) Definitions

#### **Part B. Compulsory School Attendance**

[§ 38-202.](#) Establishment of school attendance requirements

[§ 38-203.](#) Enforcement; penalties

[§ 38-207.](#) Authority of police over truant child

[§ 38-208.](#) Truancy procedures; inter-agency coordination

[§ 38-209.](#) Reporting requirements

### **Subchapter II. Expulsion of Students**

#### **Part A. General**

[§ 38-231.](#) Expulsion of students who bring weapons into public schools

[§ 38-232.](#) Reference to criminal justice or juvenile delinquency system

[§ 38-233.](#) Alternative educational programs

[§ 38-234.](#) Definitions.

#### **Part C. Student Discipline**

[§ 38-236.01.](#) Definitions

[§ 38-236.02.](#) Application

[§ 38-236.03.](#) Establishment of school discipline policies

[§ 38-236.04.](#) Limitations on exclusion as a disciplinary action

[§ 38-236.05.](#) Exclusion of students with disabilities

[§ 38-236.06.](#) Support for positive school climate and trauma-informed educational settings

[§ 38-236.07.](#) School safety and positive climate fund

[§ 38-236.08.](#) Suspension and expulsion report

[§ 38-236.09.](#) Annual reporting requirements

### **Subchapter III. Truancy and Dropout Prevention**

[§ 38-241.](#) Truancy and dropout prevention program

## **Chapter 2A. Pre-Kindergarten Education System**

### **Subchapter III. Expansion to Universal Pre-k**

[§ 38-273.03.](#) Restriction on out-of-school discipline for pre-k age students

## **Chapter 6. Student Health Care**

### **Subchapter IV. Student Access to Treatment**

[§ 38-651.10.](#) Misuse

## **Chapter 8A. Healthy Schools**

### **Subchapter VI. Health and Wellness**

[§ 38-826.05.](#) Tobacco-free school campuses

## **Subtitle VII. Special Education.**

### **Chapter 25B. Placement of Students with Disabilities in Nonpublic Schools**

[§ 38-2561.01.](#) Definitions.

[§ 38-2561.03.](#) Placement and funding of a student with a disability in a nonpublic special education school or program

## **District of Columbia Regulations**

### **District of Columbia Municipal Regulations**

#### **Title 5. Education**

##### **Title 5-A. Office of the State Superintendent of Education**

###### **Chapter A21. Compulsory Education and School Attendance**

[5-A2100.](#) General provisions

[5-A2101.](#) Attendance records and reporting

[5-A2102.](#) Absences

[5-A2103.](#) Absentee intervention and school-based student support teams

[5-A2199.](#) Definitions

###### **Chapter A28. Nonpublic Special Education Schools and Programs Serving Students with Disabilities Funded by the District of Columbia and Special Education Rates**

[5-A2814.](#) Individualized behavior support and discipline

[5-A2815.](#) Student-initiated time away from structured activity

[5-A2816.](#) Physical and chemical restraints

[5-A2817.](#) Mechanical restraint

[5-A2818.](#) Prone restraint

[5-A2819.](#) Seclusion

[5-A2820.](#) Restraint and seclusion reporting and followup

[5-A2821.](#) Attendance and truancy

[5-A2822.](#) Termination and enrollment

[5-A2824.](#) Policies and procedures

[5-A2825.](#) Professional development and training

[5-A2830.](#) Incident reporting

##### **Title 5-B. District of Columbia Public Schools**

###### **Chapter B24. Student Rights and Responsibilities**

[5-B2408.](#) Dress codes/uniforms

###### **Chapter B25. Student Discipline**

[5-B2500.](#) General policy

[5-B2501.](#) Applicability

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[5-B2504.](#) Policy for suspensions and expulsions

[5-B2505.](#) Procedures for suspensions and expulsions

[5-B2506.](#) Procedures for disciplinary hearings

- [5-B2507.](#) Hearing officer recommendations
- [5-B2508.](#) Review by the chancellor
- [5-B2509.](#) Re-entry following expulsion
- [5-B2510.](#) Proposed discipline of a student with disability
- [5-B2599.](#) Definitions

## **Title 5-E. Original Title 5**

### **Chapter 5-E24. Student Rights and Responsibilities**

- [5-E2401.](#) Student Bill of Rights
- [5-E2402.](#) Code of student responsibilities and conduct
- [5-E2403.](#) Corporal punishment
- [5-E2404.](#) Search procedures



## ***General Provisions***

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **§ 2-1535.09. Rules.**

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

##### **§ 38-172. Mayor's authority; rulemaking.**

(a) The Mayor shall govern the public schools in the District of Columbia. The Mayor shall have authority over all curricula, operations, functions, budget, personnel, labor negotiations and collective bargaining agreements, facilities, and other education-related matters, but shall endeavor to keep teachers in place after the start of the school year and transfer teachers, if necessary, during summer break.

(b) The Mayor may delegate any of his authority to a designee as he or she determines is warranted for efficient and sound administration and to further the purpose of DCPS to educate all students enrolled within its schools or learning centers consistent with District-wide standards of academic achievement.

(c)(1) In accordance with Chapter 5 of Title 2, the Mayor shall promulgate rules and regulations governing DCPS, including rules governing the process by which the Mayor and DCPS will seek and utilize public comment in the development of policy.

(2) Proposed rules shall be submitted to the Council for a 45-day period of review. If the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day review period, the proposed rules shall be deemed approved.

##### **§ 38-174. Chancellor; appointment; duties.**

(c) The duties of the Chancellor shall include to:

(5) Promulgate and implement rules and regulations necessary and appropriate to accomplish his or her duties and functions in accordance with § 38-172 and Chapter 5 of Title 2; [§ 2-501 et seq.], including rules and regulations governing the use of DCPS funds for DCPS-sponsored student travel, including the cost of transportation, lodging, meals, and admission fees for students and adult chaperones, to locations and venues outside DCPS facilities; provided, that such travel be related to the students' curriculum or for the purpose of rewarding student curricular or extra-curricular achievement;

##### **§ 38-202. Establishment of school attendance requirements.**

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

##### **§ 38-203. Enforcement; penalties.**

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

**§ 38-236.03. Establishment of school discipline policies.**

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(1) Set high expectations for student behavior and adopt an instructional and corrective approach to school discipline;

(2) Permit out-of-school suspension or disciplinary unenrollment as a disciplinary action only to ensure safety and in response to the most serious offenses, as set forth in school policy;

(3) Avoid policies requiring automatic suspension or disciplinary unenrollment for particular behaviors unless otherwise required by law;

(4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:

(A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;

(B) Can communicate with school personnel regarding academic work; and

(C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension;

(5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;

(6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;

(7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive;

(8) Describe the local education agency's in-school and out-of-school suspension practice and policy;

(9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student's offense, and, if appropriate, restorative;

(10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior;

(11) Outline procedures for communicating with students and parents regarding disciplinary actions; and

(12) Articulate clearly the due process rights and procedures available to students and parents.

(c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of § 38-273.03.

(d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.

(e) Local education agencies shall proactively evaluate and update school discipline policies and practices to ensure fairness and equity, including by using data and feedback from students, families, and school personnel to identify, reduce, and eliminate discriminatory discipline practices or outcomes and unintended consequences.

## **REGULATIONS**

### **5-B2408. Review by the chancellor.**

5. The Chancellor shall develop policies, standards, and appropriate procedures for the implementation of this section.

## **Scope**

## **LAWS**

### **§ 2-1535.03. Bullying prevention policy.**

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

- (1) On its property, including electronic communication on, or with, its property;
- (2) At sponsored functions;
- (3) On its transportation, or transportation sponsored by it; and
- (4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

- (3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;

### **§ 38-651.10. Misuse.**

(b) A student who self-administers medication while at school, at a school-sponsored activity, or while on school-sponsored transportation for a purpose other than his or her own treatment may be subject to disciplinary action by the school; provided, that disciplinary action shall not limit or restrict the access of a student to his or her prescribed medication. The school shall promptly notify the responsible person of any disciplinary action imposed.

### **§ 38-826.05. Tobacco-free school campuses.**

(a) Tobacco and tobacco products are prohibited in public school and public charter school buildings, grounds, parking lots, parking garages, playing fields, school buses and other vehicles, and at off-campus, school-sponsored events.

(b) For a public charter school located in a mixed-use facility, the requirements of subsection (a) of this section shall apply only to the buildings, grounds, parking lots, garages, and fields under the control of the public charter school.

## REGULATIONS

### **5-B2501. Applicability.**

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.

### **5-E2404. Search procedures.**

10. All lockers, desks, and other property provided by D.C. Public Schools to students for the storage of personal belongings and school supplies, are the property of the D.C. Public Schools and shall remain under the jurisdiction of D.C. Public Schools. The use of these items by students is a privilege. School officials retain the right to open and search lockers, desks and such other school property and the contents thereof, with or without the presence of the student(s) at any time to enforce school policies, rules, or regulations, or for any other reason.

## Communication of policy

## LAWS

### **§ 2-1535.03. Bullying prevention policy.**

- (f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:
  - (1) Discussing its bullying policy with youth; and
  - (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

### **§ 38-236.03. Establishment of school discipline policies.**

(d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.

## REGULATIONS

### **5-A2102. Absences.**

3. An educational institution shall publish and make available to parents and students the attendance policies and procedures, including a list of valid excused absences.

**5-B2500. General policy.**

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.

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.

**5-E2401. Student Bill of Rights.**

4. Each student has the right to adequate and timely notice of all rules, regulations, policies and sanctions to which the student is subject. All rules and regulations shall be available in writing and be accessible to all students. A copy of the rules of the Board of Education shall be maintained in the library, guidance office, or other appropriate place in each public school in the District of Columbia. A copy of § 2401 (Student Bill of Rights) shall be provided to each student upon registration at a public school in the District of Columbia

**5-E2404. Search procedures.**

12. Principals shall provide notification to students, and their parents on a regular basis, including at the beginning of each school year, of the Board's policy regarding searches.

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

##### **§ 2-1535.03. Bullying prevention policy.**

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(5) A list of the consequences that can result from an identified incident of bullying, which are designed to;

(D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:

(i) Nature of the incident;

(ii) Developmental age of the person bullying; and

(iii) Any history of problem behavior from the person bullying;

#### **REGULATIONS**

##### **5-B2408. Review by the chancellor.**

13. With the exception of the disciplinary action described in section B2408.16, students violating the mandatory uniform policy shall be subject to progressive corrective measures and disciplinary action.

##### **5-B2500. General policy.**

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.

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.

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.

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.

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).

**5-B2502. Grounds for disciplinary action.**

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.

(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.

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.

(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 2408.16 of this title.

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.

(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.

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.

(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.

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.

(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.

## **Teacher authority to remove students from classrooms**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2500. General policy.**

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

- (e) Temporary Removal of Student from Classroom.

#### **5-B2502. Grounds for disciplinary action.**

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.

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

(5) Temporary Removal of Student from Classroom;

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.

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

(5) Temporary Removal of Student from Classroom;

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.

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

(5) Temporary Removal of Student from Classroom;

## **Alternatives to suspension**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2500. General policy.**

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.

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.

#### **5-B2502. Grounds for disciplinary action.**

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.

(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.

## **Use of corporal punishment**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-E2401. Student Bill of Rights.**

12. Each student shall have the right to respect from teachers, other students, administrators, and other school personnel, and shall not be subject to ridicule, harassment, or any punishment that is demeaning or derogatory. No student shall be subject to corporal punishment.

#### **5-E2403. Corporal punishment.**

1. For purposes of this section, "corporal punishment" is defined as the use, or attempted use, of physical force upon, or against, a student, either intentionally or with reckless disregard for the student's safety, as a punishment, or discipline.

2. The use of corporal punishment in any form is strictly prohibited in and during all aspects of the public school environment or school activities. No student shall be subject to the infliction of corporal punishment by any teacher, other student administrator, or other school personnel.

3. No teacher, administrator, student or other person shall subject a student to corporal punishment or condone the use of corporal punishment by any person under his or her supervision or control.

4. Permission to administer corporal punishment shall not be sought or accepted from any parent, guardian, or school official.

5. Conduct prohibited by this section include actual or attempted use or physical force against a student in accordance with § 2403.1, provided that the conduct is not prompted by reasonable efforts at self defense or the defense of others; is necessary to maintain or regain order; or is necessary for the safety of the educational environment. Examples of prohibited conduct include, but are not limited to, the following:

- (a) Shoving;
- (b) Striking;
- (c) Grabbing;
- (d) Shaking;
- (e) Hitting;
- (f) Throwing of objects; and
- (g) Unreasonable restraint.
- (h) Directing others to inflict any of the above on a student.

6. The nature and the amount of physical contact reasonably necessary for self- defense, defense of others, protection of the educational environment, or to regain or maintain order shall be dependent upon the factual circumstances of each case. When reviewing those circumstances, the following shall be considered.

- (a) If the action was taken in self-defense or the defense of others, whether the action taken against the student was (1) proportionate to student's conduct, and (2) the least intrusive means of controlling the situation.

(b) If the action was taken against a student for the protection of the educational environment or regain or to maintain order, whether the action taken against the student was (1) taken as a last resort after all other reasonable means had been exhausted, and (2) the least intrusive means of controlling the situation.

7. All allegation of the use of corporal punishment shall be promptly investigated. Discipline shall be administered against any employee who violates this section. Students shall be permitted, but not required, to testify at any proceeding relating to the allegation of corporal punishment.

8. Employees found to have violated this provision will be subject to discipline in accordance with § 1401 these Board Rules, 5 DCMR 1401, and the appropriate collective bargaining agreement, if applicable.

## **Use of student and locker searches**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-E2401. Student Bill of Rights.**

13. Principals, assistant principals, school security personnel and other designated individuals may conduct, or cause to be conducted, such searches of students as are reasonable to maintain the security, discipline and educational atmosphere of a school building, event or program, in accordance with the provisions § 2404.

#### **5-E2404. Search procedures.**

1. Individualized searches shall be undertaken if there exists reasonable suspicion that there has been a violation of the student discipline rules (chapter 25 of this title) or the criminal laws of the District of Columbia or the federal government, or, if such a search is part of the overall effort to maintain the security and safety of D.C. Public Schools, in accordance with the provisions this chapter.

2. Reasonable suspicion shall be premised upon any one or more of the following circumstances:

(a) Observation of contraband or other prohibited property by school officials or conduct suggesting the presence of contraband or other prohibited property;

(b) General, suspicious conduct, such as a student's being in a restricted area without approval;

(c) Observation of suspicious bulges in a student's clothing or personal property;

(d) A tip from an informant, either known to the school official to be reliable or, if anonymous, possessing some attribute, knowledge, or relationship to the school, student or community that gives credence to the information; or

(e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws.

3. The student's age, history, and school record shall be considered in the context of the nature of the infraction, in deciding whether to undertake a search.

4. Random searches of students, and lockers shall be undertaken, in a manner which is consistent with the overall need to maintain the safety and security of D.C. Public Schools. The searches shall occur under the auspices of the D.C. Public Schools Office of Safety and Security and, where appropriate, the Metropolitan Police Department and the D.C. Public Schools Legal Services Branch, unless circumstances compel immediate action to avoid imminent danger to self or others.

5. Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, searches of students shall occur in the privacy of an office or unoccupied room.
6. Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, all searches shall be made in the presence of a third party.
7. Under no circumstances are strip searches to be conducted by school system personnel. In the event that there is reason to believe that such a search would uncover evidence of criminal conduct, the Metropolitan Police Department shall be notified.
8. Subsequent to any search being conducted, whether based on individualized suspicion or at random, the principal shall prepare a written report detailing the scope of the search and circumstances giving rise to the search. Copies of this report shall be filed with the appropriate assistant superintendent, the Division of Safety and Security, and the Legal Services Branch.
9. Magnetometers and other metal-detecting devices may be utilized by school officials at entrances to schools when deemed appropriate by the Superintendent of Schools to be necessary to deter weapons being brought onto school grounds; provided, that such devices are regularly checked and calibrated.
10. All lockers, desks, and other property provided by D.C. Public Schools to students for the storage of personal belongings and school supplies, are the property of the D.C. Public Schools and shall remain under the jurisdiction of D.C. Public Schools. The use of these items by students is a privilege. School officials retain the right to open and search lockers, desks and such other school property and the contents thereof, with or without the presence of the student(s) at any time to enforce school policies, rules, or regulations, or for any other reason.
11. Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.
12. Principals shall provide notification to students, and their parents on a regular basis, including at the beginning of each school year, of the Board's policy regarding searches.

## **Other in-school disciplinary approaches**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2502. Grounds for disciplinary action.**

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.

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

- (8) Grade reduction for Academic Dishonesty;

# ***Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements***

## **Grounds for possible suspension or expulsion**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2408. Review by the chancellor.**

15. A fourth offense of a mandatory uniform policy may subject a student, at the principal's discretion, to on-site suspension.

#### **5-B2502. Grounds for disciplinary action.**

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.

**5-B2504. Policy for suspensions and expulsions.**

4. A student may be suspended prior to a conference pursuant to § 2505 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.

5. A student may be expelled from DCPS only for the commission of an infraction as set forth in § 2502.5.

# Grounds for mandatory suspension or expulsion

## LAWS

### **§ 38-231. Expulsion of students who bring weapons into public schools.**

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

### **§ 38-232. Reference to criminal justice or juvenile delinquency system.**

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

### **§ 38-234. Definitions.**

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

(1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive:

(2) The frame or receiver of any weapon described in this subsection;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device; the term "destructive device" means:

(A) Any explosive, incendiary, or poison gas;

(B) Bomb;

(C) Grenade;

(D) Rocket having a propellant charge of more than 4 ounces;

(E) Missile having an explosive or incendiary charge of more than a 1/4 ounce;

(F) Mine; or

(G) Any similar device.

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(6) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (e) and (f) of this paragraph and from which a destructive device may be readily assembled.

(b) The term "weapon" shall not include:

(1) An antique firearm;

(2) Any device which is neither designed nor redesigned for use as a weapon; or

(3) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

### **§ 38-236.03. Establishment of school discipline policies.**

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

- (1) Set high expectations for student behavior and adopt an instructional and corrective approach to school discipline;
- (2) Permit out-of-school suspension or disciplinary unenrollment as a disciplinary action only to ensure safety and in response to the most serious offenses, as set forth in school policy;
- (3) Avoid policies requiring automatic suspension or disciplinary unenrollment for particular behaviors unless otherwise required by law;
- (4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:
  - (A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;
  - (B) Can communicate with school personnel regarding academic work; and
  - (C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension;
- (5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;
- (6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;
- (7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive;
- (8) Describe the local education agency's in-school and out-of-school suspension practice and policy;
- (9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student's offense, and, if appropriate, restorative;
- (10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior;
- (11) Outline procedures for communicating with students and parents regarding disciplinary actions; and
- (12) Articulate clearly the due process rights and procedures available to students and parents.

(c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of § 38-273.03.

(d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.

(e) Local education agencies shall proactively evaluate and update school discipline policies and practices to ensure fairness and equity, including by using data and feedback from students, families, and



school personnel to identify, reduce, and eliminate discriminatory discipline practices or outcomes and unintended consequences.

## **REGULATIONS**

### **5-B2502. Grounds for disciplinary action.**

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.

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.

# Limitations, conditions or exclusions for use of suspension and expulsion

## LAWS

### **§ 38-231. Expulsion of students who bring weapons into public schools.**

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

### **§ 38-236.04. Limitations on exclusion as a disciplinary action.**

(a) Not funded.

(b) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension for longer than:

- (1) Five consecutive school days for any individual incident in grades kindergarten through 5;
- (2) Ten consecutive school days for any individual incident in grades 6 through 12; or
- (3) Twenty cumulative school days during an academic year regardless of grade, unless:

(A) The head of a local education agency provides a written justification to the student and parent describing why exceeding the 20-day limit is a more appropriate disciplinary action than alternative responses; or

(B) The student's conduct necessitated an emergency removal, and the head of the local education agency provides a written justification for the emergency removal to the student and parent.

(c) No student, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for an unexcused absence or a late arrival to school; provided, that a student may be unenrolled from a local education agency if the student has accumulated 20 or more consecutive full-school-day unexcused absences.

(d) No student subject to a suspension may be denied the right to continue to access and complete appropriate academic work or to earn credit toward promotion or graduation during a suspension.

(e) The return of a student to school upon conclusion of an out-of-school suspension shall not be made contingent on a parent accompanying the student, attending a conference, or otherwise being present at the school.

(f) Notwithstanding whether a school or local education agency states the reasoning for the removal from school or prohibition from returning to school, no student may be removed from school or prohibited from returning to school for disciplinary reasons, unless the student is subject to an out-of-school suspension or disciplinary unenrollment.

(g) For purposes of due process, a suspension of 6 school days or more shall be considered a long-term suspension.

(h) Repealed.

### **§ 38-236.05. Exclusion of students with disabilities.**

(a) School administrators shall take special consideration regarding the exclusion of a student with a disability.

(b) All of a student's disabilities, as defined in section 3(1)(A) and (B) of the Americans with Disabilities Act, approved July 26, 1990 (104 Stat. 329; 42 U.S.C. § 12102(1)(A)-(B)), of which the school had knowledge shall be considered in a manifestation determination review conducted pursuant to section 615(k)(1)(E) of the Individuals with Disabilities Education Act, approved April 13, 1970 (84 Stat. 175; 20 U.S.C. § 1415(k)(1)(E)).

**§ 38-273.03. Restriction on out-of-school discipline for pre-k age students.**

(a) Beginning in school year 2015-2016, no student of pre-k age may receive a disciplinary unenrollment, as defined in § 38-236.01(3), from any publicly funded community-based organization, school in the District of Columbia Public Schools system, or public charter school that provides pre-k care and education services to pre-k age children.

(b) Beginning in school year 2015-2016, no student of pre-k age may receive an out-of-school suspension from any publicly funded community-based organization, school in the District of Columbia Public Schools system, or public charter school that provides pre-k care and education services to pre-k age children, unless it is determined by a school or program administrator that the student has willfully caused or attempted to cause bodily injury, or threatened serious bodily injury to another person, except in self-defense. No student of pre-k age may be suspended for longer than 3 days for any individual incident.

**REGULATIONS**

**5-B2408. Review by the chancellor.**

14. Under no circumstance shall a student who fails to abide by a mandatory uniform policy be given out-of-school suspension or otherwise be barred from attending school.

**5-B2500. General policy.**

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.

**5-B2502. Grounds for disciplinary action.**

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.

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

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

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

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.

(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;

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

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.

(b) Disciplinary responses for Tier V behaviors include:

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

**5-B2504. Policy for suspensions and expulsions.**

1. Nothing herein shall exempt a student with a disability from disciplinary action.
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.
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.
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
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.
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.
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 § 2511.2 or § 2511.3 so that it does not recur.
8. If a disciplinary action is contemplated as described in § 2511.B2 or § 2511.3 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.
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.
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.
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.
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.
13. Either before or not later than ten (10) consecutive school days after taking a disciplinary action described in § 2510.2:
- (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
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.

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.

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.

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.

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 § 2510.17 above.

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 § 2510.5 (i.e., 45 days), whichever occurs first, unless the parent and DCPS agree otherwise.

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 § 2510.21, below.

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.

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 § 2510.23 below), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

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

(c) 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.

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.

25. If DCPS does not have knowledge that a child is a child with a disability in accordance with § 2510.23 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.

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.

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.

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.

#### **5-E2401. Student Bill of Rights.**

14. Each student shall have the right to use reasonable physical means to defend himself or herself from assault or physical abuse, and shall not be subject to suspension for using limited, reasonable, physical means to restrain another person from physically assaulting or harming a third person.

## **Administrative procedures related to suspension and expulsion**

### **LAWS**

#### **§ 38-236.03. Establishment of school discipline policies.**

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(12) Articulate clearly the due process rights and procedures available to students and parents.

### **REGULATIONS**

#### **5-B2504. Policy for suspensions and expulsions.**

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. 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.

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.

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. 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.5-B2505. Procedures for suspensions and expulsions.

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.

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

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.

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.
5. The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.
  7. A principal authorizing Short-Term Suspension shall submit the authorization to a person designated by the Chancellor within one (1) school day.
  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.
  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.
  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.
  11. In determining whether to propose an Expulsion, a person designated by the Chancellor shall consider the factors enumerated in § B2500.
  12. If a person designated by the Chancellor does not concur with the recommended Expulsion, he or she may propose other disciplinary action.
  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.
  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.

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.

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.

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.

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.

#### **5-B2506. Procedures for disciplinary hearings.**

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.

#### **5-B2507. Hearing officer recommendations.**

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 § 2500.8 and explicit justification for any recommended modification.
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.
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.
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.
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.
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.
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.

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 § 2507.9. 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.

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.

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.

### **5-B2599. Definitions.**

1. Unless the same term or phrase is defined in § 2599.2, the definitions set forth in § 2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

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 person al 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 § 2504.6.

“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.

## **In-school suspension**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2502. Grounds for disciplinary action.**

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.

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

(6) In-School Disciplinary Action;

(8) Other school-based consequences as approved by a person designated by the Chancellor.

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.



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

(6) In-School Disciplinary Action;

(8) Other school-based consequences as approved by a person designated by the Chancellor;

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.

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

(7) In-School Disciplinary Action;

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

## **Return to school following removal**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2509. Re-entry following expulsion.**

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.

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.

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.

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.

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.).

## **Use of restraint and seclusion**

### **LAWS**

#### **§ 38-2561.01. Definitions.**

For the purposes of this chapter, the term:

(1) "Aversive intervention" means specific strategies for behavioral-treatment intervention, including:

(A) Noxious, painful, intrusive stimuli or activities that result in pain;

- (B) Any form of noxious, painful, or intrusive spray or inhalant;
- (C) Electric shock or use of a graduated electronic decelerator;
- (D) Pinches and deep muscle squeezes;
- (E) Withholding adequate sleep, shelter, clothing, bedding, or bathroom facilities;
- (F) Withholding meals, essential nutrition, or hydration, or intentionally altering staple food or drink to make it distasteful; or
- (G) The use of chemical restraints, instead of positive programs or medical treatments.

**§ 38-2561.03. Placement and funding of a student with a disability in a nonpublic special education school or program.**

(a) If an LEA anticipates that it may be unable to implement a student's IEP or provide a student with an appropriate special education placement in accordance with the IDEA and other applicable laws or regulations, the LEA shall notify the SEA. The SEA shall cooperate with the LEA to provide a placement in a more restrictive setting in conformity with the IDEA, and any other applicable laws or regulations.

(b)(1) Unless the placement of a student has been ordered by a District of Columbia court, federal court, or a hearing officer pursuant to IDEA, no student whose education, including special education or related services, is funded by the District of Columbia government shall be placed in a nonpublic special education school or program that:

- (A) Allows the use of aversive intervention in its policy or practice;

**REGULATIONS**

No relevant regulations found.

**Alternative placements**

**LAWS**

**§ 38-233. Alternative educational programs.**

The Board of Education shall provide to any student who is expelled from school in accordance with this subchapter an alternative educational program at the D.C. Street Academy, at another existing alternative educational program, or at any alternative educational program that may be established in the future. Not later than 90 days after the effective date of this subchapter:

- (1) The Mayor and the Board of Education shall submit a report to the Council delineating a comprehensive plan for providing alternative educational services to a student who has been expelled from a District of Columbia Public School setting.
- (2) The comprehensive plan shall include a description of the alternative education services to be provided to an expelled student, each location where the alternative education services shall be provided, and the estimated annual cost of providing the alternative education services.

**§ 38-236.03. Establishment of school discipline policies.**

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

- (1) Set high expectations for student behavior and adopt an instructional and corrective approach to school discipline;

- (2) Permit out-of-school suspension or disciplinary unenrollment as a disciplinary action only to ensure safety and in response to the most serious offenses, as set forth in school policy;
  - (3) Avoid policies requiring automatic suspension or disciplinary unenrollment for particular behaviors unless otherwise required by law;
  - (4) Include a plan for continuity of education for any student subject to a suspension, including a mechanism for modifications to the plan to meet the needs of an individual student, as necessary, to facilitate the student's return to the classroom, and appropriate measures to ensure the student:
    - (A) Continues the student's studies during the suspension and receives all appropriate assignments for the duration of the suspension;
    - (B) Can communicate with school personnel regarding academic work; and
    - (C) Upon returning to school, has the opportunity to make up any school work missed during the suspension if the school work cannot be completed by the student during the student's suspension;
  - (5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;
  - (6) Identify conduct or categories of conduct, by severity of offense, including conduct that constitutes causing, attempting, or threatening bodily injury or emotional distress, for which a student may be disciplined;
  - (7) Identify graduated levels of disciplinary action for misbehavior through a list of options available to teachers and administrators for each level of misconduct; provided, that such a list need not be exhaustive;
  - (8) Describe the local education agency's in-school and out-of-school suspension practice and policy;
  - (9) Promote disciplinary actions that are individualized, fair, equitable, developmentally appropriate, proportional to the severity of the student's offense, and, if appropriate, restorative;
  - (10) Provide that school personnel shall consider whether student behavior can be safely and appropriately handled through other disciplinary action before making referrals to law enforcement or seeking school-related arrests in response to student behavior;
  - (11) Outline procedures for communicating with students and parents regarding disciplinary actions; and
  - (12) Articulate clearly the due process rights and procedures available to students and parents.
- (c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of § 38-273.03.
- (d) A school, or local education agency, as appropriate, shall provide school discipline policies to students and parents and shall provide students and parents with explanations of the policies, including explanations of expectations, rights, and responsibilities of students and parents under the policies. The school, or local education agency, as appropriate, shall make the school discipline policy publicly available, including in a conspicuous place on the school and local education agency's website.
- (e) Local education agencies shall proactively evaluate and update school discipline policies and practices to ensure fairness and equity, including by using data and feedback from students, families, and school personnel to identify, reduce, and eliminate discriminatory discipline practices or outcomes and unintended consequences.

## REGULATIONS

### **5-B2500. General policy.**

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.

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.

### **5-B2504. Policy for suspensions and expulsions.**

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.5-B2408. Review by the chancellor.

16. If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

##### **§ 22-4502.01. Gun free zones; enhanced penalty.**

(a) All areas within, 1000 feet of an appropriately identified public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, youth center, or public library, or in and around public housing as defined in section 3(1) of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 654; 42 U.S.C. § 1437a(b)), the development or administration of which is assisted by the United States Department of Housing and Urban Development, or in or around housing that is owned, operated, or financially assisted by the District of Columbia Housing Authority, or an event sponsored by any of the above entities shall be declared a gun free zone. For the purposes of this subsection, the term "appropriately identified" means that there is a sign that identifies the building or area as a gun free zone.

(b) Any person illegally carrying a gun within a gun free zone shall be punished by a fine up to twice that otherwise authorized to be imposed, by a term of imprisonment up to twice that otherwise authorized to be imposed, or both.

(c) The provisions of this section shall not apply to a person legally licensed to carry a firearm in the District of Columbia who lives or works within 1000 feet of a gun free zone or to members of the Army, Navy, Air Force, or Marine Corps of the United States; the National Guard or Organized Reserves when on duty; the Post Office Department or its employees when on duty; marshals, sheriffs, prison, or jail wardens, or their deputies; policemen or other duly-appointed law enforcement officers; officers or employees of the United States duly authorized to carry such weapons; banking institutions; public carriers who are engaged in the business of transporting mail, money, securities, or other valuables; and licensed wholesale or retail dealers.

##### **§ 38-231. Expulsion of students who bring weapons into public schools.**

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

##### **§ 38-232. Reference to criminal justice or juvenile delinquency system.**

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

##### **§ 38-234. Definitions.**

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

- (1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive;
- (2) The frame or receiver of any weapon described in this subsection;
- (3) Any firearm muffler or firearm silencer; or

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(b) The term "weapon" shall not include:

(1) An antique firearm;

## **REGULATIONS**

### **5-B2502. Grounds for disciplinary action.**

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:

(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;

(17) Assault with a weapon;

(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.

### **5-E2404. Search procedures.**

1. Individualized searches shall be undertaken if there exists reasonable suspicion that there has been a violation of the student discipline rules (chapter 25 of this title) or the criminal laws of the District of Columbia or the federal government, or, if such a search is part of the overall effort to maintain the security and safety of D.C. Public Schools, in accordance with the provisions this chapter.

2. Reasonable suspicion shall be premised upon any one or more of the following circumstances:

(e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws.

11. Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.

## **Other weapons**

### **LAWS**

#### **§ 38-231. Expulsion of students who bring weapons into public schools.**

Absent extenuating circumstances, as determined on a case-by-case basis by the Superintendent of Schools, and consistent with the Individuals With Disabilities Education Act, approved October 30, 1990 (104 Stat. 1141; 20 U.S.C. 1400 et seq.), any student who brings a weapon into a District of Columbia Public School shall be expelled for not less than one year.

#### **§ 38-232. Reference to criminal justice or juvenile delinquency system.**

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

#### **§ 38-234. Definitions.**

(a) For the purposes of this subchapter, the term "weapon" means a firearm and includes:

(1) Any weapon, including a starter gun, which will or is designed to or may be readily converted to expel a projectile by the action of an explosive:

(2) The frame or receiver of any weapon described in this subsection;

(3) Any firearm muffler or firearm silencer; or

(4) Any destructive device; the term "destructive device" means:

(A) Any explosive, incendiary, or poison gas;

(B) Bomb;

(C) Grenade;

(D) Rocket having a propellant charge of more than 4 ounces;

(E) Missile having an explosive or incendiary charge of more than a 1/4 ounce;

(F) Mine; or

(G) Any similar device.

(5) Any type of weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than 1/2 an inch in diameter; and

(6) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraphs (e) and (f) of this paragraph and from which a destructive device may be readily assembled.

(b) The term "weapon" shall not include:

(1) An antique firearm;

- (2) Any device which is neither designed nor redesigned for use as a weapon; or
- (3) Any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

## **REGULATIONS**

### **5-B2502. Grounds for disciplinary action.**

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:

- (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;

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:

- (7) Possession of fireworks or explosives;
- (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;
- (17) Assault with a weapon;

(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.

#### **5-E2404. Search procedures.**

1. Individualized searches shall be undertaken if there exists reasonable suspicion that there has been a violation of the student discipline rules (chapter 25 of this title) or the criminal laws of the District of Columbia or the federal government, or, if such a search is part of the overall effort to maintain the security and safety of D.C. Public Schools, in accordance with the provisions this chapter.

2. Reasonable suspicion shall be premised upon any one or more of the following circumstances:

(e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws.

11. Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.

## **Students with chronic disciplinary issues**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-A2103. Absentee intervention and school-bases student support teams.**

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(4) A student who accumulates ten (10) unexcused absences at any time during a school year shall be considered to be chronically truant. The school-based student support team assigned to the student shall notify the school administrator within two (2) school days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;

#### **5-A2199. Definitions.**

"Chronic Absenteeism" The incidence of a student missing more than 10% of school days, including excused and unexcused absences.

"Chronically Truant" A school aged child who is absent from school without a legitimate excuse for ten (10) or more days within a single school year.

#### **5-B2502. Grounds for disciplinary action.**

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:

(13) Documented Pattern of Persistent Tier I Behavior.

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:

(28) Documented Pattern of Persistent Tier II Behavior.

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:

(16) Documented Pattern of Persistent Tier III Behavior enumerated at 2502.3(a)(1) through (27).

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:

(24) Documented Pattern of Persistent Tier IV Behavior.

## **Attendance and truancy**

### **LAWS**

#### **§ 38-201. Definitions.**

For the purposes of this subchapter, the term:

(1) Repealed.

(1A) "Chronic absenteeism" means the incidence of students missing more than 10% of school days, including excused and unexcused absences.

(2) "District" means the District of Columbia.

(2A) "Educational institution" means a school in the District of Columbia Public Schools system, a public charter school, an independent school, a private school, a parochial school, or a private instructor.

(2B) "Full school day" means the entirety of the instructional hours regularly provided on a single school day.

(3) "Minor" means a person who has not reached 18 years of age, pursuant to § 46-101.

(3A) "Parent" means a parent, guardian, or other person who resides in the District and who has custody or control of a minor 5 years of age or older.

(3B) "School-based student support team" means a team formed to support the individual student by developing and implementing action plans and strategies that are school-based or community-based, depending on the availability, to enhance the student's success with services, incentives, intervention strategies, and consequences for dealing with absenteeism.

(4) "School year" means the period from the opening of regular school programs, typically in September, until the closing of regular school programs, typically in June.

#### **§ 38-202. Establishment of school attendance requirements.**

(a) Every parent, guardian, or other person, who resides permanently or temporarily in the District during any school year and who has custody or control of a minor who has reached the age of 5 years or will become 5 years of age on or before September 30th of the current school year shall place the minor in

regular attendance in an educational institution during the period of each year when the public schools of the District are in session. This obligation of the parent, guardian, or other person having custody extends until the minor reaches the age of 18 years. For the purpose of this section placement in summer school is not required.

(b) Any minor who has satisfactorily completed the senior high school course of study prescribed by the Board and has been granted a diploma that certifies his or her graduation from high school, or who holds a diploma or certificate of graduation from another course of study determined by the Board to be at least equivalent to that required by the Board for graduation from the public senior high schools, shall be excused from further attendance at school.

(c) Any minor who has reached the age of 17 years may be allowed flexible school hours by the head of the educational institution in which the minor is enrolled provided he or she is actually, lawfully, gainfully, and regularly employed, but in no case shall he or she be excused entirely from regular attendance or excused to the extent that his or her timely graduation would be jeopardized or prevented.

(d) The Board shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to establish requirements to govern acceptable credit for studies completed at independent or private schools and private instruction, to govern the selection and appointment of appropriate staff members to carry out the provisions of this chapter under the direction of the Superintendent of Schools, pursuant to Chapter 6 of Title 1, and in respect to other matters within the scope of authority of the Board that relates to this subchapter.

#### **§ 38-203. Enforcement; penalties.**

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each educational institution. These records shall be open for inspection at all times by the Board, the State Superintendent of Education, school attendance officers, or other persons authorized to enforce this subchapter.

(b) Repealed.

(c)(1) The absence of a minor covered by § 38-202(a) without valid excuse shall be unlawful.

(2) An absence of a minor covered by § 38-202(a) who is enrolled in a public school is deemed unexcused unless the minor's parent, guardian, or other person who has custody or control of the minor provides the school with a valid excuse for the minor's absence within 5 school days upon the minor's return to school.

(d) The parent, guardian, or other person who has custody or control of a minor covered by § 38-202(a) who is absent from school without a valid excuse shall be guilty of a misdemeanor.

(e) Any person convicted of failure to keep a minor in regular attendance in a public, independent, private, or parochial school, or failure to provide regular private instruction acceptable to the Board may be fined not less than \$100 or imprisoned for not more than 5 days, or both for each offense.

(f) Each unlawful absence of a minor for 2 full-day sessions or for 4 half-day sessions during a school month shall constitute a separate offense.

(f-1) Repealed.

(f-2) Repealed.

(g) For the 1st offense, upon payment of costs, the sentence may be suspended, and the defendant may be placed on probation.

(h) For any person convicted under this section, the courts shall consider requiring the offender to perform community service as an alternative to fine or imprisonment or both.

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Office of the State Superintendent of Education, and make publicly available the following data for each school or campus under its authority based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

- (i) One to 5 days;
- (ii) Six to 10 days;
- (iii) Eleven to 20 days; and
- (iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

- (i) The number of students who were referred to a school-based student support team;
- (ii) The number of students who met with a school-based student support team;
- (iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and
- (iv) A summary of the services utilized by students to reduce unexcused absences;
- (v) A summary of the common barriers to implementing the recommendations of the school-based student support team;

(B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2);

(B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and

(C) The policy on absences, including defined categories of valid excuses, that it used.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

(k) By November 30 of each year, the Office of the State Superintendent of Education shall publicly report on the state of absenteeism in the District based on data from the preceding school year, including an analysis of truancy and chronic absenteeism by school or campus and the impact of current laws on improving school attendance.

#### **§ 38-207. Authority of police over truant child.**

(a)(1) A law enforcement officer who has reasonable grounds to believe, based on the minor's age and other factors, that a minor is truant from any public, independent, private, or parochial school on a day and during the hours when the school is in session shall take that minor into custody and deliver the minor to the public, independent, private, or parochial school where the minor is presently enrolled, so long as the school is located in the District.

(2) If the minor is not currently enrolled at a public, independent, private, or parochial school, the law enforcement officer shall take the minor to the District of Columbia Public Schools placement office.

(3) If a minor is enrolled in a public, independent, private, or parochial school located within the District of Columbia, the educational institution shall receive that minor from a law enforcement officer during the hours when the school is in operation.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to

subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall send the minor's parent:

- (1) Information from the Chief of Police about the compulsory attendance requirements and criminal penalties for violations of this chapter; and
- (2) A letter notifying the parent that he or she may be in violation of the school attendance requirements under this chapter and may be subject to prosecution.

**§ 38-208. Truancy procedures; inter-agency coordination.**

(a) Repealed.

(b) Within 2 business days of the 10th unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy prevention resource guide created pursuant to § 38-2602(b)(19); provided, that the parent has not received the truancy prevention resource guide before the 10th unexcused absence.

(c) In addition to the requirements set forth in subsection (b) of this section:

(1)(A) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to § 4-1321.02(a-1), no later than 2 business days after the accrual of 10 unexcused full school day absences within a school year.

(B) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused full school day absences within a school year.

(C) The educational institution shall have discretion with regard to the referral requirements set forth in subparagraphs (A) and (B) of this paragraph if a minor student accrues the 10th or 15th unexcused absence, respectively, within the final 10 school days of a school year.

(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall send the minor student's parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this subchapter.

(d) By July 1 of each year, the State Superintendent of Education shall send written notice to each educational institution outlining the attendance and reporting requirements outlined in this subchapter.

**§ 38-209. Reporting requirements.**

By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

- (1) Referrals it received from each educational institution;
- (2) Cases it filed pursuant to this subchapter, and the outcome of each;
- (3) Child-in-need of supervision cases filed pursuant to this subchapter, and the outcome of each; and
- (4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this subchapter.

**§ 38-241. Truancy and dropout prevention program.**

- (a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.
- (b) The program shall develop a supportive relationship with the Metropolitan Police Department.
- (c) The program shall be available for students who are enrolled in grades K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.
- (d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

**REGULATIONS**

**5-A2100. General provisions.**

- 4. Student attendance shall be consistent with the reporting requirements in Section 2101.
- 5. Daily attendance shall include participation in school-sponsored field trips; participation in an off-site school sponsored or approved activity during a regularly scheduled school day; in-school suspensions; and the number of days a student receives instructional services while expelled or while serving an out-of-school suspension.

**5-A2101. Attendance records and reporting.**

- 1. Each educational institution operating in the District of Columbia shall maintain an accurate, contemporaneous, and daily attendance record for each student who is enrolled in or who attends the educational institution.
- 2. Records shall be maintained as follows:
  - (a) The requirement to maintain an attendance record for a student who has completed the enrollment process for an educational institution shall begin on the educational institution's first (1st) official school day and continue throughout the school year, unless the student officially withdraws from the educational institution; fails to attend at least one (1) day of school in the first three (3) weeks of school without notification for such absence; or transfers to another educational institution; and
  - (b) Expulsion or suspension of a student during the school year does not relieve the educational institution of the duty to record and report the student's daily attendance for the school year in which the expulsion or suspension occurred until such time as the student officially withdraws from or enrolls in another educational institution; or such time as the educational institution that, despite best efforts, it is unable to contact the parent or guardian.
- 3. The attendance record for each student shall contain the following:
  - (a) Dates of enrollment;
  - (b) Daily legible or machine-readable records of daily attendance, noting the student as present or absent for a full or partial school day;
  - (c) Determination of the nature of each absence as excused, unexcused; suspension-related; or expulsion-related;
  - (d) Dates of withdrawal from the educational institution or confirmed transfer to another educational institution, including the name and location of the educational institution to which the student transferred and follow up notation(s) to confirm the child's new placement;

- (e) Dates of each referral to the school-based student support team, the Child and Family Services Agency (“CFSA”), the Court Social Services Division of the Superior Court of the District of Columbia (“Court Social Services”); or the Office of the Attorney General Juvenile Section (“OAG-Juvenile Section”) related to absenteeism or truancy;
  - (f) Dates of marking periods;
  - (g) Dates on which a law enforcement officer enforcing compulsory attendance laws returns the student to the educational institution;
  - (h) Daily late arrival time, beginning with school year 2015 or at such time that the school is capable of implementing this subsection, whichever is earlier;
  - (i) Dates and times of early dismissals from the school day, as authorized by the educational institution, beginning with school year 2015 or at such time that the school is capable of implementing this subsection, whichever is earlier;
  - (j) Dates and brief description of communications with student, parent(s) or guardian(s) with regard to school attendance and absences, including the record of or a cross-reference to the record documenting:
    - (1) Contact with parents, guardians, or other primary caregivers; and
    - (2) Interventions, services, and service referrals related to absences other than those listed in subparagraph (d);
  - (k) Underlying causes for student’s absenteeism or truancy as determined by the school-based student support team;
  - (l) Action plans and strategies implemented by the school-based student support team to eliminate unexcused absences; and
  - (m) Services utilized by the student to reduce unexcused absences.
4. Prior to the beginning of each school year, an educational institution shall designate an attendance monitor(s) to be responsible for collecting, maintaining, and reporting the attendance data required for each student consistent federal and District requirements. An attendance monitor shall:
- (a) Ensure timely submission of attendance in conformance with this chapter; and
  - (b) Submit corrected attendance records via an automated, electronic feed, or such other format.; and provide any corrections to attendance records within fifteen (15) business days of submission; and
  - (c) Timely respond to requests for clarification of submitted attendance records.
5. The name and contact information of the designated attendance monitor shall be reported by the educational institution prior to the first (1st) official school day of each school year.
6. Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203(i). Such report shall include attendance information in aggregate form, excluding individual student data.
7. Prior to the beginning of each school year, OSSE shall issue a report including the following information:
- (a) Truancy rates for each educational institution;
  - (b) Progress in improving attendance and reducing truancy for each educational institution; and
  - (c) Each educational institution’s compliance with key attendance and truancy requirements.
8. An educational institution shall maintain attendance records as part of the student’s permanent record and for such periods of time as may be otherwise specified by applicable laws and regulations.
9. Within two (2) business days after each occurrence of a student’s tenth (10th) unexcused absence during a school year, the educational institution shall:

(a) [REPEALED];

(b) Send the student's parent a letter, under signature of the Chief of the Metropolitan Police Department, notifying the parent that he or she may be in violation of the school attendance requirements and subject to prosecution under District of Columbia laws; and

(c) Notify OSSE of the student's ten (10) days of the unexcused absence.

10. Upon notification from the educational institution under § 2101.9, OSSE shall provide the parent with a copy of the Truancy Prevention Resource Guide published by OSSE.

#### **5-A2102. Absences.**

1. Any absence, including an absence from any portion of the instructional day, without a valid excuse shall be presumed to be an unexcused absence.

2. An educational institution shall define categories of valid excuses for an absence, which shall include the following categories:

(a) Illness or other bona fide medical cause experienced by the student;

(b) Exclusion, by direction of the authorities of the District of Columbia, due to quarantine, contagious disease, infection, infestation, or other condition requiring separation from other students for medical or health reasons;

(c) Death in the student's family;

(d) Necessity for a student to attend judiciary or administrative proceedings as a party to the action or under subpoena;

(e) Observance of a religious holiday;

(f) Lawful suspension or exclusion from school by school authorities;

(g) Temporary closing of facilities or suspension of classes due to severe weather, official activities, holidays, malfunctioning equipment, unsafe or unsanitary conditions, or other condition(s) or emergency requiring a school closing or suspension of classes;

(h) Failure of the District of Columbia to provide transportation in cases where the District of Columbia has a legal responsibility for the transportation of the student;

(i) Medical or dental appointments for the student;

(k) Absences to allow students to visit their parent or a legal guardian, who is in the military; immediately before, during, or after deployment; and

(l) An emergency or other circumstances approved by an educational institution.

3. An educational institution shall publish and make available to parents and students the attendance policies and procedures, including a list of valid excused absences.

4. An educational institution shall obtain an explanation from the student's parent or guardian verifying the reason for an absence within no more than five (5) days upon the student's return to school, otherwise the absence shall be deemed unexcused.

#### **5-A2103. Absentee intervention and school-based student support teams.**

1. An educational institution shall implement a specific protocol for absenteeism (absenteeism protocol) including a focus on prevention of unexcused absences, also referred to as truancy, and academic and behavioral interventions to address the needs of students.

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(a) A description of valid excused absences consistent with this chapter;



(b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and related collaborative services; and

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent or guardian of a student, on the same day and each time a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary;

(2) A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists, which continuum shall not include off-site suspension and/or expulsion as intervention strategies;

(3) A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one (1) marking period or other similar time frame, the student shall be referred to a school-based student support team which will meet within five (5) school days of the referral and regularly thereafter to:

(A) Review and address the student's attendance and determine the underlying cause(s) for the student's unexcused absences;

(B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and parents or guardian;

(C) Communicate and collaborate with the student's existing Individualized Education Program (IEP) team, as applicable;

(C) Provide timely response to the student's truant behavior;

(D) Make recommendations for academic, diagnostic, or social work services;

(E) Use school and community resources to abate the student's truancy including referral to a community-based organization when available; and

(F) Develop and implement an action plan in consultation with the student and student's parents or guardian;

(4) A student who accumulates ten (10) unexcused absences at any time during a school year shall be considered to be chronically truant. The school-based student support team assigned to the student shall notify the school administrator within two (2) school days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;

(5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution; and

(6) A process to ensure that the LEA maintains complete, accurate, and contemporaneous records of the work of the school-based student support team to reduce unexcused absences, including records of all meetings that take place after a student accumulates five (5) or more unexcused absences in one (1) marking period or other similar time frame and after a student accumulates ten (10) unexcused absences at any time during a school year.

3. In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), an educational institution shall provide, upon request, student-level data and records evidencing the work of school-based student support teams.

4. A school-based student support team shall be guided by the following principles:
  - (a) Prior to performing school-based student support team functions, appointed team members shall be provided training on the compulsory attendance laws, regulations, and policies of the District of Columbia and OSSE; absenteeism and truancy intervention strategies and best practices; and available remedies and services to ameliorate the causes of absenteeism and truancy;
  - (b) A school-based student support team shall include the educational institution's designated attendance monitor;
  - (c) Core school-based student support team membership should typically include a :
    - (1) General education teacher;
    - (2) School nurse, psychologist, counselor, and/or social worker, if applicable; and
    - (3) School administrator with decision-making authority.
  - (d) Selection of additional members of a team should be guided by the needs of the particular student, which may include the following:
    - (1) IDEA/Section 504 coordinator and/or special education personnel;
    - (2) Early learning/Head Start teacher;
    - (3) Bilingual or English as a second language teacher;
    - (4) Representatives of CFSA and/or Department of Youth Rehabilitation Services (DYRS);
    - (5) McKinney-Vento homeless liaison; and/or
    - (6) Guardian ad litem.
5. Each educational institution shall develop a process to refer students to District of Columbia entities under the following circumstances:
  - (a) Students ages five (5) through thirteen (13) shall be referred by the educational institution to the Child and Family Services Agency not later than two (2) business days after the accrual of ten (10) unexcused absences within a school year; and
  - (b) Beginning in the 2013-14 school year, students ages fourteen (14) through seventeen (17) shall be referred by the educational institution to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of Attorney General Juvenile Section no later than two (2) business days after the accrual of fifteen (15) unexcused absences within a school year.
6. Copies of the following documents shall be provided with a referral made pursuant to this chapter:
  - (a) The student's attendance and absence record;
  - (b) Any prevention and intervention plans;
  - (c) Documentation related to referrals and outcome of such referrals;
  - (d) Documentation representing evidence of communications, services, and attendance related interventions taken by the school;
  - (e) Documentation of suspected educational neglect;
  - (f) Documentation of personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and
  - (g) If applicable, the student's Individualized Education Program pursuant to IDEA or Section 504 services plan, with any supporting evaluations or assessments.

## **5-A2199. Definitions.**

“Absence” A full or partial school day on which the student is not physically in attendance at scheduled periods of actual instruction at the educational institution in which s/he was enrolled or attended, and is not in attendance at a school-approved activity that constitutes part of the approved school program.

“Absenteeism” A pattern of not attending school, including the total number of school days within one school year on which a student is marked with an excused or unexcused absence.

“Action plan” A written document that is designed to meet the individual and specialized needs of the student and contains the relevant details of the student’s attendance record, the school-based or third-party-provided interventions toward addressing the underlying causes of truancy as determined by the school-based student support team, and expected attendance goals.

“Attendance monitor” The person(s) designated by the principal or chief school administrator of an educational institution to be responsible for collecting, maintaining, and reporting attendance records that are required pursuant to District of Columbia compulsory education and school attendance laws, regulations, and OSSE policies for each student enrolled in the educational institution.

“Chronic Absenteeism” The incidence of a student missing more than 10% of school days, including excused and unexcused absences.

“Chronically Truant” A school aged child who is absent from school without a legitimate excuse for ten (10) or more days within a single school year.

“Consultation” A meeting or conversation between the school-based student support team of an educational institution and a student’s parents or guardians in which the team, on the part of the educational institution, engages in meaningful discussions about the issues underlying the student’s absenteeism prior to making any decision about action plans, interventions, or services to address the student’s absenteeism.

“Educational institution” a school in the District of Columbia Public Schools system, or a public charter school.

“Educational neglect” The failure of a parent or guardian to ensure that a child attends school consistent with the requirements of the law including, without limitation, the failure to enroll a school-age child in an educational institution or provide appropriate private instruction; permitting chronic absenteeism from school; inattention to special education needs; refusal to allow or failure to obtain recommended remedial education services; or the failure to obtain treatment or other special education services without reasonable cause.

“Elementary/secondary educational program” A course of instruction and study from and including pre-Kindergarten through the end of high school, any portion thereof, or its equivalent.

“Enrollment” A process through which a student obtains admission to a public or public charter school that includes, at a minimum the following stages:

- (1) Application by student to attend the school;
- (2) Acceptance and notification of an available slot to the student by the school;
- (3) Acceptance of the offered slot by the student (signified by completion of enrollment forms and parent signature on a “letter of enrollment agreement form”);
- (4) Registration of the student in the Student Information System (SIS) by school upon receipt of required enrollment forms and letter of enrollment agreement; and
- (5) Receipt of educational services, which are deemed to begin on the first official school day.
- (6) The LEA’s obligation to determine eligibility for special education services or to provide special education services on an existing IEP is triggered upon completion of registration (stage 4).

“IDEA” The “Individuals with Disabilities Education Act”, approved April 13, 1970 (84 Stat. 191; 20 U.S.C. §1400 et seq.), as amended by Pub. L. 108-446, approved December 3, 2004 (118 Stat. 2647).

“Full school day” The entirety of the instructional hours regularly provided on a single school day.

“Late arrival” Arrival by a student at the educational institution after the official start of the school day as defined by the educational institution. Late arrival does not include any period of time that would constitute a partial school day as defined by this chapter.

“LEA” Local Educational Agency, pursuant to 20 USCS § 7801(26)(A), a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

“Marking period” A portion of a school year between two dates, at the conclusion of which period students are graded or marked.

“McKinney-Vento” The “McKinney-Vento Homeless Assistance Act of 1987”, as amended, Title VII, Subtitle B; 42 U.S.C. 11431-11435.

“OSSE” The Office of the State Superintendent of Education.

“Partial school day” At least twenty percent (20%) of the instructional hours regularly provided on a single school day; which shall be deemed to be a full school day, when a student is absent during this period of time without an excused absence.

“Parent” A parent, guardian, or other person who resides in the District and who has custody or control of a minor five (5) years of age or older.

“Present” A single school day on which the student is physically in attendance at scheduled periods of actual instruction at the educational institution in which she or he was enrolled and registered for at least eighty percent (80%) of the full instructional day, or in attendance at a school-approved activity that constitutes part of the approved school program for that student.

“School-age child” A child who between five (5) years of age on or before September 30 of the current school year or eighteen (18) years.

“Section 504” Section 504 of the “Rehabilitation Act of 1973”, approved September 26, 1973 (87 Stat. 394; 29 U.S.C. § 794).

“STEM” Educational instruction in science, technology, engineering, and mathematics.

“Truant” A school-age child who is absent from school without a legitimate excuse for absence.

“Truancy rate” The incidence of students who are absent without valid excuse as defined by 5 DCMR A § 2102 on ten (10) or more occasions within a single school year, divided by the total number of students enrolled for a single school year, as determined by the final enrollment audit conducted by OSSE, pursuant to D.C. Official Code § 38-203. Truancy rate may be calculated and reported at the school, LEA, and state levels.

### **5-B2502. Grounds for disciplinary action.**

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:

(5) Unexcused lateness for school or class;

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:

- (6) Unexcused absence from class;
- (7) Unauthorized presence in hallway during class time;
- (8) Unexcused absence from school;

#### **5-B2504. Policy for suspensions and expulsions.**

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.5-E2402. Code of student responsibilities and conduct.

9. A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

## **Substance use**

### **LAWS**

#### **§ 38-651.10. Misuse.**

- (a) A school may deny a medication action plan pursuant to terms established by the Mayor.
- (b) A student who self-administers medication while at school, at a school-sponsored activity, or while on school-sponsored transportation for a purpose other than his or her own treatment may be subject to disciplinary action by the school; provided, that disciplinary action shall not limit or restrict the access of a student to his or her prescribed medication. The school shall promptly notify the responsible person of any disciplinary action imposed.

#### **§ 38-826.05. Tobacco-free school campuses.**

- (a) Tobacco and tobacco products are prohibited in public school and public charter school buildings, grounds, parking lots, parking garages, playing fields, school buses and other vehicles, and at off-campus, school-sponsored events.
- (b) For a public charter school located in a mixed-use facility, the requirements of subsection (a) of this section shall apply only to the buildings, grounds, parking lots, garages, and fields under the control of the public charter school.

### **REGULATIONS**

#### **5-B2502. Grounds for disciplinary action.**

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:

(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)

(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.

### **5-E2402. Code of student responsibilities and conduct.**

8. A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.

## **Bullying, harassment, or hazing**

### **LAWS**

#### **§ 2-1535.01. Definitions.**

For the purposes of this subchapter, the term:

(1) "Agency" means a District government entity that provides services, activities, or privileges to youth, including the:

(A) Office of the State Superintendent of Education;

(B) Department of Parks and Recreation;

(C) District of Columbia Public Library; and

(D) University of the District of Columbia.

(2)(A) "Bullying" means any severe, pervasive, or persistent act or conduct, whether physical, electronic, or verbal that:

(i) May be based on a youth's actual or perceived race, color, ethnicity, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, intellectual ability, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, place of residence or business, or any other distinguishing characteristic, or on a youth's association with a person, or group with any person, with one or more of the actual or perceived foregoing characteristics; and

(ii) Can be reasonably predicted to:

(I) Place the youth in reasonable fear of physical harm to his or her person or property;

(II) Cause a substantial detrimental effect on the youth's physical or mental health;

(III) Substantially interfere with the youth's academic performance or attendance; or

(IV) Substantially interfere with the youth's ability to participate in or benefit from the services, activities, or privileges provided by an agency, educational institution, or grantee.

(B) For the purposes of this paragraph, the terms "familial status," "family responsibilities," "gender identity or expression," "genetic information," "intrafamily offense," "marital status," "matriculation," "personal appearance," "political affiliation," "sexual orientation," and "source of income" shall have the same meaning as provided in § 2-1401.02.

(3) "Educational institution" means any local education agency that receives funds from the District of Columbia.

(4) "Electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, tablet, pager, or video or audio recording.

(5) "Employee" means an individual who performs a function for the District government for an agency, educational institution, or grantee who receives compensation for the performance of that function.

(6) "Grantee" means an entity or a contractor of an entity that, on behalf of the District government or through District funding, provides services, activities, or privileges to youth.

(7) "Human Rights Act" means Unit A of Chapter 14 [§ 2-1401.01 et seq.].

(8) "Party" means a person accused of bullying, a target of bullying, or a parent or guardian of either a person accused of bullying or a target of bullying.

(9) "Youth," depending on the context, means:

(A) An individual of 21 years of age or less who is enrolled in an educational institution or who accesses the services or programs provided by an agency or grantee, or an individual of 22 years of age or less who is receiving special education services from an educational institution; or

(B) Individuals as described in subparagraph (A) of this paragraph considered as a group.

#### **§ 2-1535.02. Bullying prevention task force.**

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

(A) Teachers;

(B) Administrators from educational institutions and agencies;

(C) School mental health professionals;

(D) Parents, and legal guardians;

(E) Youth;

(F) Direct service providers; and

(G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

(1) Provide guidance to the Mayor on the implementation of this subchapter;

(2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);

(3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;

(4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;

- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
  - (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;
  - (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;
  - (5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and
  - (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.
- (d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

**§ 2-1535.03. Bullying prevention policy.**

- (a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:
- (1) On its property, including electronic communication on, or with, its property;
  - (2) At sponsored functions;
  - (3) On its transportation, or transportation sponsored by it; and
  - (4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.
- (b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:
- (1) The definition of bullying set forth in § 2-1535.01(2);
  - (2) A statement prohibiting bullying;
  - (3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;
  - (4) The expected code of conduct;
  - (5) A list of the consequences that can result from an identified incident of bullying, which are designed to:
    - (A) Appropriately correct the bullying behavior;
    - (B) Prevent another occurrence of bullying or retaliation;
    - (C) Protect the target of the bullying;
    - (D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:
      - (i) Nature of the incident;
      - (ii) Developmental age of the person bullying; and
      - (iii) Any history of problem behavior from the person bullying;



- (6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;
  - (7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;
  - (8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and
  - (9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.
- (c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).
- (d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.
- (e) Information on the bullying prevention policy shall be incorporated into new employee training.
- (f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:
- (1) Discussing its bullying policy with youth; and
  - (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

**§ 2-1535.04. Secondary investigation appeal.**

- (a)(1) A party who is not satisfied with the outcome of the initial investigation conducted pursuant to § 2-1535.03(b)(7) may request a secondary investigation by submitting a written appeal to the higher-level authority in the agency, educational institution, or grantee designated to hear appeals within 30 days of the conclusion of the investigation conducted pursuant to § 2-1535.03(b)(7).
- (2) The secondary investigation shall be completed within 30 days of receipt of the appeal, unless:
- (A) Circumstances require additional time to complete a thorough investigation;
  - (B) The higher-level authority sets forth those circumstances in writing; and
  - (C) The additional time does not exceed 15 days.
- (b)(1) When an appeal for a secondary investigation is submitted, the agency, educational institution, or grantee shall inform the party about his or her ability to seek further redress under the Human Rights Act.
- (2) This section shall not be construed to limit the right of a person to assert or seek redress for a claim arising under the Human Rights Act.

**§ 2-1535.05. Retaliation.**

- (a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.
- (b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

**§ 2-1535.06. Bullying prevention programs.**

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

- (1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;
- (2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and
- (3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

**§ 2-1535.07. Reporting requirement.**

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

- (1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and
- (2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

**§ 2-1535.08. Availability of other remedies.**

This subchapter does not create a new private right of action or provide a statutory basis for a claim for damages against the District of Columbia or its employees.

**§ 2-1535.09. Rules.**

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this subchapter.

**REGULATIONS**

**5-B2502. Grounds for disciplinary action.**

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:

(20) Hazing;

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

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:

(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;

## **Other special infractions or conditions**

### **LAWS**

#### **§ 5-132.02. Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division.**

(d)(1) The School Safety Division shall develop a plan to be implemented before the beginning of each DCPS school year for protecting children walking to and from DCPS and public charter schools and for protecting children from gang and crew violence on, in, and around DCPS and public charter schools' property. Beginning in 2009, this plan shall be provided to the Mayor, the Council, and the Chancellor, by August 15th of each year.

(2) The plan shall include a description of:

(A) Safety issues children may face during passage to and from school, and recommended solutions to these issues; and

(B) A description of specific gang and crew conflicts and recommended solutions for the protection of children from gang and crew violence on, in, and around DCPS and public charter schools property.

### **REGULATIONS**

#### **5-B2408. Review by the chancellor.**

16. If a student fails to abide by a mandatory uniform policy more than four times, a behavioral contract may be written in which the consequences for not fulfilling the terms of the contract may include a referral to a placement team to determine a more appropriate setting. Any transfer to an alternative setting must be approved by the Chancellor.

#### **5-B2502. Grounds for disciplinary action.**

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.

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.

**5-E2402. Code of student responsibilities and conduct.**

1. Each student shall be responsible for providing a positive and healthy environment for others by maintaining order and self-discipline, and by having consideration for the rights and property of others.
2. Each student shall bear the responsibility for his or her own conduct.
3. Each student shall be responsible for neatness and cleanliness of personal attire and hygiene.
4. A student shall respect other students, teachers, administrators and other school personnel, and visitors as human beings and as fellow citizens of the school community.
5. A student shall respect the personal property of others and refrain from causing intentional damage or unnecessary wear and tear to books, facilities, school materials, school buildings and furnishings, and the personal property of others.
6. A student shall refrain from fighting, creating disturbances, denying others the use of school facilities or buildings, using or carrying any weapon on school grounds, intentionally injuring another person, or acting in a manner that would expose others to risk or danger of harm or injury.
7. A student shall not use threats or intimidation against any other person.
8. A student shall respect the health and safety of others and shall refrain from using tobacco; or using, possessing, transmitting, or being under the influence of any alcoholic beverage, narcotic substance, or illegal or prohibited drug or substance; or by engaging in gambling, extortion, theft, assault, excessive noise, or any other unlawful activity.
9. A student shall respect the educational process and learning environment of others by refraining from intentional or habitual tardiness, unexcused absences, or other activities that diminish the rights of others and the opportunity for other students to receive an education and obtain the maximum benefit from a public education.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

##### **§ 2-1535.02. Bullying prevention task force.**

- (a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.
- (b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:
- (A) Teachers;
  - (B) Administrators from educational institutions and agencies;
  - (C) School mental health professionals;
  - (D) Parents, and legal guardians;
  - (E) Youth;
  - (F) Direct service providers; and
  - (G) Advocates.
- (2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.
- (c) The task force shall:
- (1) Provide guidance to the Mayor on the implementation of this subchapter;
  - (2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);
  - (3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;
  - (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;
  - (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
  - (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;
  - (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;
  - (5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and
  - (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.
- (d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

**§ 2-1535.03. Bullying prevention policy.**

(a) Within 365 days of September 14, 2012, in coordination with the task force established pursuant to § 2-1535.02, each agency, educational institution, and grantee shall adopt a bullying prevention policy to be enforced:

- (1) On its property, including electronic communication on, or with, its property;
- (2) At sponsored functions;
- (3) On its transportation, or transportation sponsored by it; and
- (4) Through electronic communication to the extent that it is directed at a youth and it substantially interferes with the youth's ability to participate in or benefit from the services, activities, or privileges provided by the agency, education institution, or grantee.

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

- (1) The definition of bullying set forth in § 2-1535.01(2);
- (2) A statement prohibiting bullying;
- (3) A statement that the policy applies to participation in functions sponsored by the agency, educational institution, or grantee;
- (4) The expected code of conduct;
- (5) A list of the consequences that can result from an identified incident of bullying, which are designed to:
  - (A) Appropriately correct the bullying behavior;
  - (B) Prevent another occurrence of bullying or retaliation;
  - (C) Protect the target of the bullying;
  - (D) Be flexible so that in application they can be unique to the individual incident and varied in method and severity based on the:
    - (i) Nature of the incident;
    - (ii) Developmental age of the person bullying; and
    - (iii) Any history of problem behavior from the person bullying;
- (6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;
- (7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;
- (8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and
- (9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

(c) Within 365 days of September 14, 2012, each agency, educational institution, and grantee shall submit a copy of its adopted policy to the task force, pursuant to § 2-1535.02(c)(5).

(d) The requirements of this subchapter and any policy adopted pursuant to this subchapter shall be deemed to constitute health and safety requirements for educational institutions.

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

(f) Each agency, educational institution, and grantee shall develop a plan for how the policy is to be publicized, including the plan for:

- (1) Discussing its bullying policy with youth; and
- (2) Publicizing that the policy applies to participation in functions sponsored by an agency, educational institution, or grantee.

**§ 2-1535.06. Bullying prevention programs.**

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

- (1) Establish an annual bullying prevention program for youth, which for each educational institution should align with established health-education standards;
- (2) Inform youth about their right to be free from discrimination in public accommodations and education, and of the redress available for a violation of their rights under the Human Rights Act; and
- (3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

**REGULATIONS**

**5-B2500. General policy.**

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.

**Behavioral interventions and student support services**

**LAWS**

**§ 2-1535.02. Bullying prevention task force.**

(c) The task force shall:

- (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;

**§ 38-236.06. Support for positive school climate and trauma-informed educational settings.**

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
  - (A) Trauma and chronic stress, their effects on students and learning, and effective responses;
  - (B) Classroom management, positive behavioral interventions, and fostering positive school climate;
  - (C) Disciplinary approaches that utilize instruction and correction;



- (D) Restorative practices and other evidence-based or promising behavioral interventions;
- (E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.); and
- (F) Implicit bias and culturally responsive corrective action techniques;

(3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and

(4) Not Funded.

(b) The OSSE shall collaborate with other government agencies, local education agencies and schools, and postsecondary educational institutions to facilitate the provision of postsecondary degree or certificate programs covering the topics described in subsection (a)(2) of this section, including the identification or creation of a trauma-informed educator certificate program.

(c) For the purpose of providing local education agencies and schools the services set forth in subsection (a) of this section, the OSSE may:

- (1) Award a contract or grant to one or more nonprofit organizations;
- (2) Award contracts or competitive or formula grants to local education agencies, schools, or partnerships developed among schools or with nonprofit organizations;
- (3) Establish a memorandum of understanding with the Department of Behavioral Health or other District agency; or
- (4) Any combination of paragraphs (1) through (3) of this subsection.

#### **§ 38-241. Truancy and dropout prevention program.**

(a) Subject to the availability of appropriations, the District of Columbia Board of Education, or its successor, and the District of Columbia Public Schools shall offer a Truancy and Dropout Prevention Program for students who are enrolled in the District of Columbia Public Schools system. The programs should be implemented on a full-time basis, work with local schools and parents, and provide resources that will help reduce absences and unexcused absences, and reduce dropout and increase retention rates.

(b) The program shall develop a supportive relationship with the Metropolitan Police Department.

(c) The program shall be available for students who are enrolled in grades K-12 and for students who are enrolled in ungraded classes in elementary, middle or junior high, and high schools.

(d) Notwithstanding any other law, nothing in this section shall be construed to create an entitlement to a truancy or dropout prevention program for any student.

### **REGULATIONS**

#### **5-A2103. Absentee intervention and school-based student support teams.**

1. An educational institution shall implement a specific protocol for absenteeism (absenteeism protocol) including a focus on prevention of unexcused absences, also referred to as truancy, and academic and behavioral interventions to address the needs of students.

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

- (a) A description of valid excused absences consistent with this chapter;

(b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and related collaborative services; and

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent or guardian of a student, on the same day and each time a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary;

(2) A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists, which continuum shall not include off-site suspension and/or expulsion as intervention strategies;

(3) A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one (1) marking period or other similar time frame, the student shall be referred to a school-based student support team which will meet within five (5) school days of the referral and regularly thereafter to:

(A) Review and address the student's attendance and determine the underlying cause(s) for the student's unexcused absences;

(B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and parents or guardian;

(C) Communicate and collaborate with the student's existing Individualized Education Program (IEP) team, as applicable;

(C) Provide timely response to the student's truant behavior;

(D) Make recommendations for academic, diagnostic, or social work services;

(E) Use school and community resources to abate the student's truancy including referral to a community-based organization when available; and

(F) Develop and implement an action plan in consultation with the student and student's parents or guardian;

(4) A student who accumulates ten (10) unexcused absences at any time during a school year shall be considered to be chronically truant. The school-based student support team assigned to the student shall notify the school administrator within two (2) school days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;

(5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution; and

(6) A process to ensure that the LEA maintains complete, accurate, and contemporaneous records of the work of the school-based student support team to reduce unexcused absences, including records of all meetings that take place after a student accumulates five (5) or more unexcused absences in one (1) marking period or other similar time frame and after a student accumulates ten (10) unexcused absences at any time during a school year.

3. In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), an educational institution shall provide, upon request, student-level data and records evidencing the work of school-based student support teams.

4. A school-based student support team shall be guided by the following principles:
  - (a) Prior to performing school-based student support team functions, appointed team members shall be provided training on the compulsory attendance laws, regulations, and policies of the District of Columbia and OSSE; absenteeism and truancy intervention strategies and best practices; and available remedies and services to ameliorate the causes of absenteeism and truancy;
  - (b) A school-based student support team shall include the educational institution's designated attendance monitor;
  - (c) Core school-based student support team membership should typically include a :
    - (1) General education teacher;
    - (2) School nurse, psychologist, counselor, and/or social worker, if applicable; and
    - (3) School administrator with decision-making authority.
  - (d) Selection of additional members of a team should be guided by the needs of the particular student, which may include the following:
    - (1) IDEA/Section 504 coordinator and/or special education personnel;
    - (2) Early learning/Head Start teacher;
    - (3) Bilingual or English as a second language teacher;
    - (4) Representatives of CFSA and/or Department of Youth Rehabilitation Services (DYRS);
    - (5) McKinney-Vento homeless liaison; and/or
    - (6) Guardian ad litem.
5. Each educational institution shall develop a process to refer students to District of Columbia entities under the following circumstances:
  - (a) Students ages five (5) through thirteen (13) shall be referred by the educational institution to the Child and Family Services Agency not later than two (2) business days after the accrual of ten (10) unexcused absences within a school year; and
  - (b) Beginning in the 2013-14 school year, students ages fourteen (14) through seventeen (17) shall be referred by the educational institution to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of Attorney General Juvenile Section no later than two (2) business days after the accrual of fifteen (15) unexcused absences within a school year.
6. Copies of the following documents shall be provided with a referral made pursuant to this chapter:
  - (a) The student's attendance and absence record;
  - (b) Any prevention and intervention plans;
  - (c) Documentation related to referrals and outcome of such referrals;
  - (d) Documentation representing evidence of communications, services, and attendance related interventions taken by the school;
  - (e) Documentation of suspected educational neglect;
  - (f) Documentation of personal contacts with, and written notification to, parents or guardians with regard to the unexcused absences; and
  - (g) If applicable, the student's Individualized Education Program pursuant to IDEA or Section 504 services plan, with any supporting evaluations or assessments.

**5-B2500. General policy.**

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

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.

**5-B2502. Grounds for disciplinary action.**

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.

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

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

## Professional development

### LAWS

#### **§ 2-1535.03. Bullying prevention policy.**

(e) Information on the bullying prevention policy shall be incorporated into new employee training.

#### **§ 2-1535.06. Bullying prevention programs.**

Following the adoption of a bullying prevention policy, as required by § 2-1535.03, each agency, educational institution, and grantee may:

- (3) Provide training on bullying prevention to all employees and volunteers who have significant contact with youth.

#### **§ 38-236.06. Support for positive school climate and trauma-informed educational settings.**

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
  - (A) Trauma and chronic stress, their effects on students and learning, and effective responses;
  - (B) Classroom management, positive behavioral interventions, and fostering positive school climate;
  - (C) Disciplinary approaches that utilize instruction and correction;
  - (D) Restorative practices and other evidence-based or promising behavioral interventions;
  - (E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.); and
  - (F) Implicit bias and culturally responsive corrective action techniques;
- (3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and
- (4) Not Funded.

### REGULATIONS

#### **5-A2103. Absentee intervention and school-based student support teams.**

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

- (b) A process for informing, training, and educating school staff, students, parents, guardians, and the community with regard to enhancing school attendance, implementing truancy reduction methods, administering attendance policies and procedures, and related collaborative services; and

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

##### **§ 2-1535.03. Bullying prevention policy.**

(b) Each agency, educational institution, and grantee shall control the content of its policy; provided, that each policy includes:

(6) A procedure for reporting bullying or retaliation for reporting an act of bullying, including for reporting bullying anonymously; provided, that no formal response shall be taken solely on the basis of an anonymous report;

(7) A procedure for prompt investigation of reports of violations of its policy and of complaints of bullying or retaliation, including the name and contact information of the person responsible for investigating reports;

(8) An appeal process, in accordance with § 2-1535.04, for a person accused of bullying or a person who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(9) A statement that prohibits retaliation against any person who reports bullying, including the possible consequences for a person who engages in retaliatory behavior.

##### **§ 2-1535.05. Retaliation.**

(a) An employee, volunteer, or youth shall not retaliate against a victim or witness of bullying or a person who reports bullying.

(b) An employee or volunteer who has witnessed bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), or has reliable information that a person has been subject to bullying in violation of a bullying prevention policy that is consistent with § 2-1535.03(a), shall report the incident or information to the person designated by the agency, educational institution, or grantee, in accordance with § 2-1535.03(b)(7), as responsible for investigating the reports.

#### **REGULATIONS**

##### **5-A2103. Absentee intervention and school-based student support teams.**

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(1) A procedure requiring reasonable and diligent attempts to make personal contact with the parent or guardian of a student, on the same day and each time a student has the equivalent of one (1) day of unexcused absence, with daily follow-ups as necessary;

(2) A continuum of school practices and services including meaningful supports, incentives, intervention strategies, and consequences for dealing with absenteeism and consultation with parents or guardians, both at the onset of absenteeism and in those circumstances where chronic absenteeism persists, which continuum shall not include off-site suspension and/or expulsion as intervention strategies;

(3) A referral process whereby within two (2) school days after a student has accumulated five (5) or more unexcused absences in one (1) marking period or other similar time frame, the student shall be

referred to a school-based student support team which will meet within five (5) school days of the referral and regularly thereafter to:

- (A) Review and address the student's attendance and determine the underlying cause(s) for the student's unexcused absences;
  - (B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and parents or guardian;
  - (C) Communicate and collaborate with the student's existing Individualized Education Program (IEP) team, as applicable;
  - (C) Provide timely response to the student's truant behavior;
  - (D) Make recommendations for academic, diagnostic, or social work services;
  - (E) Use school and community resources to abate the student's truancy including referral to a community-based organization when available; and
  - (F) Develop and implement an action plan in consultation with the student and student's parents or guardian;
- (4) A student who accumulates ten (10) unexcused absences at any time during a school year shall be considered to be chronically truant. The school-based student support team assigned to the student shall notify the school administrator within two (2) school days after the tenth (10th) unexcused absence with a plan for immediate intervention including delivery of community-based programs and any other assistance or services to identify and address the student's needs on an emergency basis;
- (5) A process including specific due process procedures, for a parent, guardian, or student to appeal any attendance violation decisions made by the educational institution; and
- (6) A process to ensure that the LEA maintains complete, accurate, and contemporaneous records of the work of the school-based student support team to reduce unexcused absences, including records of all meetings that take place after a student accumulates five (5) or more unexcused absences in one (1) marking period or other similar time frame and after a student accumulates ten (10) unexcused absences at any time during a school year.

#### **5-B2503. Policy for disciplinary actions.**

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

## **Parental notification**

### **LAWS**

#### **§ 38-207. Authority of police over truant child.**

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall send the minor's parent:

- (1) Information from the Chief of Police about the compulsory attendance requirements and criminal penalties for violations of this chapter; and
- (2) A letter notifying the parent that he or she may be in violation of the school attendance requirements under this chapter and may be subject to prosecution.

#### **§ 38-236.03. Establishment of school discipline policies.**

(a) Local education agencies shall foster positive school climates that engage all students in learning.

(b) Local education agencies shall adopt, in consultation with school personnel, students, and parents, school discipline policies to promote the safety and well-being of students and staff. School discipline policies shall:

(5) Require school personnel to seek and facilitate the involvement of parents in response to an incident resulting in a disciplinary action, particularly with regard to the plan for continuity of education, to the degree that a parent is able to participate;

## **REGULATIONS**

### **5-A2101. Attendance records and reporting.**

9. Within two (2) business days after each occurrence of a student's tenth (10th) unexcused absence during a school year, the educational institution shall:

(b) Send the student's parent a letter, under signature of the Chief of the Metropolitan Police Department, notifying the parent that he or she may be in violation of the school attendance requirements and subject to prosecution under District of Columbia laws; and

(c) Notify OSSE of the student's ten (10) days of the unexcused absence.

10. Upon notification from the educational institution under § 2101.9, OSSE shall provide the parent with a copy of the Truancy Prevention Resource Guide published by OSSE.

### **5-A2102. Absences.**

4. An educational institution shall obtain an explanation from the student's parent or guardian verifying the reason for an absence within no more than five (5) days upon the student's return to school, otherwise the absence shall be deemed unexcused.

### **5-A2103. Absentee intervention and school-based student support teams.**

2. Each LEA shall incorporate evidence-based practice into its absenteeism protocol, considering procedures to address the following:

(c) Procedures for monitoring, reporting, addressing, and evaluating attendance and absences consistent with District of Columbia attendance and absence reporting requirements including:

(B) Employ reasonable and diligent efforts to communicate and to collaborate with the student and parents or guardian;

### **5-B2408. Dress codes/uniforms.**

13. (a) Parents shall be called when a student reports to school out of uniform. The parent shall be asked to bring compliant clothing for the student to school.

(b) If the parents are not reachable or are unable to respond within two hours of the start of the school day, the student may be issued a conforming uniform from the school's uniform bank with directions to return it clean the next school day.

### **5-B2500. General policy.**

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.



### **5-B2502. Grounds for disciplinary action.**

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.

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

- (3) Parental contact in writing or by phone;
- (4) Teacher/parent conference;

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.

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

- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;

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.

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

- (3) Parental contact (written or by phone);
- (4) Parent conference;

### **5-B2506. Procedures for disciplinary hearings.**

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.

## Reporting and referrals between schools and law enforcement

### LAWS

#### **§ 22-4502.01. Gun free zones; enhanced penalty.**

(a) All areas within, 1000 feet of an appropriately identified public or private day care center, elementary school, vocational school, secondary school, college, junior college, or university, or any public swimming pool, playground, video arcade, youth center, or public library, or in and around public housing as defined in section 3(1) of the United States Housing Act of 1937, approved August 22, 1974 (88 Stat. 654; 42 U.S.C. § 1437a(b)), the development or administration of which is assisted by the United States Department of Housing and Urban Development, or in or around housing that is owned, operated, or financially assisted by the District of Columbia Housing Authority, or an event sponsored by any of the above entities shall be declared a gun free zone. For the purposes of this subsection, the term "appropriately identified" means that there is a sign that identifies the building or area as a gun free zone.

(b) Any person illegally carrying a gun within a gun free zone shall be punished by a fine up to twice that otherwise authorized to be imposed, by a term of imprisonment up to twice that otherwise authorized to be imposed, or both.

(c) The provisions of this section shall not apply to a person legally licensed to carry a firearm in the District of Columbia who lives or works within 1000 feet of a gun free zone or to members of the Army, Navy, Air Force, or Marine Corps of the United States; the National Guard or Organized Reserves when on duty; the Post Office Department or its employees when on duty; marshals, sheriffs, prison, or jail wardens, or their deputies; policemen or other duly-appointed law enforcement officers; officers or employees of the United States duly authorized to carry such weapons; banking institutions; public carriers who are engaged in the business of transporting mail, money, securities, or other valuables; and licensed wholesale or retail dealers.

#### **§ 38-208. Truancy procedures; inter-agency coordination.**

(a) Repealed.

(b) Within 2 business days of the 10th unexcused absence, the educational institution shall notify the Office of the State Superintendent of Education which shall provide the parent with the truancy prevention resource guide created pursuant to § 38-2602(b)(19); provided, that the parent has not received the truancy prevention resource guide before the 10th unexcused absence.

(c) In addition to the requirements set forth in subsection (b) of this section:

(1)(A) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 5 years of age through 13 years of age to the Child and Family Services Agency pursuant to § 4-1321.02(a-1), no later than 2 business days after the accrual of 10 unexcused full school day absences within a school year.

(B) Beginning in the 2016-2017 school year, the educational institution shall refer a minor student 14 years of age through 17 years of age to the Court Social Services Division of the Superior Court of the District of Columbia and to the Office of the Attorney General Juvenile Section no later than 2 business days after the accrual of 15 unexcused full school day absences within a school year.

(C) The educational institution shall have discretion with regard to the referral requirements set forth in subparagraphs (A) and (B) of this paragraph if a minor student accrues the 10th or 15th unexcused absence, respectively, within the final 10 school days of a school year.

(2) Within 3 business days of the Office of the Attorney General, Juvenile Section receiving written notification pursuant to paragraph (1)(B) of this subsection, the Office of the Attorney General shall

send the minor student's parent a letter notifying the parent that he or she may be subject to prosecution for violation of the school attendance requirements under this subchapter.

(d) By July 1 of each year, the State Superintendent of Education shall send written notice to each educational institution outlining the attendance and reporting requirements outlined in this subchapter.

**§ 38-232. Reference to criminal justice or juvenile delinquency system.**

Pursuant to the Gun-Free Schools Act of 1994, approved October 20, 1994 (108 Stat. 3908; 20 U.S.C. 8921 et seq.) [repealed, see now 20 U.S.C. § 7151] the Superintendent of Schools shall refer to the criminal justice or juvenile delinquency system, simultaneous with expulsion, any student who is expelled for bringing a weapon into a District of Columbia Public School.

**REGULATIONS**

**5-E2404. Search procedures.**

1. Individualized searches shall be undertaken if there exists reasonable suspicion that there has been a violation of the student discipline rules (chapter 25 of this title) or the criminal laws of the District of Columbia or the federal government, or, if such a search is part of the overall effort to maintain the security and safety of D.C. Public Schools, in accordance with the provisions this chapter.
2. Reasonable suspicion shall be premised upon any one or more of the following circumstances:
  - (a) Observation of contraband or other prohibited property by school officials or conduct suggesting the presence of contraband or other prohibited property;
  - (b) General, suspicious conduct, such as a student's being in a restricted area without approval;
  - (c) Observation of suspicious bulges in a student's clothing or personal property;
  - (d) A tip from an informant, either known to the school official to be reliable or, if anonymous, possessing some attribute, knowledge, or relationship to the school, student or community that gives credence to the information; or
  - (e) Observation of furtive or evasive behavior to suggest either concealment of a weapon, contraband, or stolen property or perpetration of an offense violative of school regulations or laws.
3. The student's age, history, and school record shall be considered in the context of the nature of the infraction, in deciding whether to undertake a search.
4. Random searches of students, and lockers shall be undertaken, in a manner which is consistent with the overall need to maintain the safety and security of D.C. Public Schools. The searches shall occur under the auspices of the D.C. Public Schools Office of Safety and Security and, where appropriate, the Metropolitan Police Department and the D.C. Public Schools Legal Services Branch, unless circumstances compel immediate action to avoid imminent danger to self or others.
5. Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, searches of students shall occur in the privacy of an office or unoccupied room.
6. Except where otherwise necessary to avoid immediate harm or immediate disposal of contraband, all searches shall be made in the presence of a third party.
7. Under no circumstances are strip searches to be conducted by school system personnel. In the event that there is reason to believe that such a search would uncover evidence of criminal conduct, the Metropolitan Police Department shall be notified.
8. Subsequent to any search being conducted, whether based on individualized suspicion or at random, the principal shall prepare a written report detailing the scope of the search and circumstances giving rise to the search. Copies of this report shall be filed with the appropriate assistant superintendent, the Division of Safety and Security, and the Legal Services Branch.

9. Magnetometers and other metal-detecting devices may be utilized by school officials at entrances to schools when deemed appropriate by the Superintendent of Schools to be necessary to deter weapons being brought onto school grounds; provided, that such devices are regularly checked and calibrated.

10. All lockers, desks, and other property provided by D.C. Public Schools to students for the storage of personal belongings and school supplies, are the property of the D.C. Public Schools and shall remain under the jurisdiction of D.C. Public Schools. The use of these items by students is a privilege. School officials retain the right to open and search lockers, desks and such other school property and the contents thereof, with or without the presence of the student(s) at any time to enforce school policies, rules, or regulations, or for any other reason.

11. Students shall assume full responsibility for the contents of lockers and shall lock all lockers, or locks, after use. No student shall place, keep or store, or allow to be placed kept or stored, in his or her locker, desk, or other D.C. Public School property, any firearm, knife, explosive, or other dangerous object, the use or possession of which is prohibited by the rules of the Board of Education.

12. Principals shall provide notification to students, and their parents on a regular basis, including at the beginning of each school year, of the Board's policy regarding searches.

## **Disclosure of school records**

### **LAWS**

No relevant laws found.

### **REGULATIONS**

#### **5-B2503. Policy for disciplinary actions.**

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.

## **Data collection, review, and reporting of disciplinary policies and actions**

### **LAWS**

#### **§ 2-1535.07. Reporting requirement.**

(a) Each educational institution shall provide to the Mayor, by a date determined by the Mayor, an annual report regarding the aggregate incidents of bullying, and any other information that the Mayor determines is necessary or appropriate.

(b) By September 1, 2014, and biennially thereafter, the Mayor shall:

(1) Review the programs, activities, services, and policies established pursuant to this subchapter of each agency, educational institution, or grantee to determine their effectiveness and whether the agency, educational institution, or grantee is in compliance with this subchapter; and

(2) Report the findings to the Council by December 31 of each year that a report is due, along with an assessment of the current level and nature of bullying in agencies, educational institutions, and grantees and recommendations for appropriate actions to address identified problems.

**§ 38-174. Chancellor; appointment; duties.**

(c) The duties of the Chancellor shall include to:

(8) Exercise, to the extent that such authority is delegated by the Mayor:

(A) Personnel authority; and

(B) Procurement authority independent of the Office of Contracting and Procurement, consistent with Unit A of Chapter 3 of Title 2 [§ 2-301.01 et seq.];

(10) Create and operate a District-wide database that records the condition of all school facilities under the control of DCPS, which database shall be updated as necessary, but at least once per calendar year.

**§ 38-203. Enforcement; penalties.**

(i) Within 60 days after the end of a school year, each public, independent, private, or parochial school shall report to the Office of the State Superintendent of Education, and make publicly available the following data for each school or campus under its authority based on the preceding school year:

(A) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, who had unexcused absences for:

(i) One to 5 days;

(ii) Six to 10 days;

(iii) Eleven to 20 days; and

(iv) Twenty-one or more days;

(A-i) The work of the school-based student support teams in reducing unexcused absences, including:

(i) The number of students who were referred to a school-based student support team;

(ii) The number of students who met with a school-based student support team;

(iii) A summary of the action plans and strategies implemented by the school-based student support team to eliminate or ameliorate unexcused absences; and

(iv) A summary of the services utilized by students to reduce unexcused absences;

(v) A summary of the common barriers to implementing the recommendations of the school-based student support team;

(B) The number of minors, categorized by grade, or equivalent grouping for ungraded schools, that the school reported to the Child and Family Services Agency pursuant to § 4-1321.02(a-1) and (a-2);

(B-i) The number of minors categorized by grade, or equivalent grouping for ungraded schools, that the school referred to the Court Social Services Division of the Family Court of the Superior Court of the District of Columbia for truancy; and

(C) The policy on absences, including defined categories of valid excuses, that it used.

(j) By August 1, 2012, the Mayor shall develop, through rulemaking, appropriate enforcement mechanisms to ensure that each school, principal, and teacher is in full compliance with the requirements of this subchapter and any regulations issued pursuant to this subchapter.

(k) By November 30 of each year, the Office of the State Superintendent of Education shall publicly report on the state of absenteeism in the District based on data from the preceding school year, including an analysis of truancy and chronic absenteeism by school or campus and the impact of current laws on improving school attendance.

**§ 38-209. Reporting requirements.**

By July 15 of each year, beginning in 2014, the Office of the Attorney General shall submit to the Mayor and the Secretary to the Council a truancy status report on the preceding school year, which shall include the number of:

- (1) Referrals it received from each educational institution;
- (2) Cases it filed pursuant to this subchapter, and the outcome of each;
- (3) Child-in-need of supervision cases filed pursuant to this subchapter, and the outcome of each; and
- (4) Students who were enrolled in a court diversion program, or other diversion program pursuant to this subchapter.

**§ 38-235. Suspension and expulsion report.**

Within 180 calendar days of September 19, 2013, the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate Part A of this subchapter [§ 38-231 et seq.].

**§ 38-236. Annual reporting requirements.**

(a) Each local education agency and entity operating a publicly funded community-based organization shall maintain data for each student that includes:

- (1) Demographic data including:
  - (A) The campus attended by the student;
  - (B) The student's grade level;
  - (C) The student's gender identification;
  - (D) The student's race;
  - (E) The student's ethnicity;
  - (F) Whether the student receives special education services;
  - (G) Whether the student is classified as an English language learner; and
  - (H) Whether the student is considered at-risk as defined in § 38-2901(2A); and

(2) Discipline data including:

- (A) Total number of out-of-school suspensions and in-school suspensions experienced by the student during each school year;
- (B) Total number of days excluded from school;
- (C) Whether the student was referred to an alternative education setting for the duration of a suspension;
- (D) Whether the student was expelled during the school year;
- (E) Whether the student voluntarily or involuntarily transferred or withdrew from the school during the school year; and
- (F) For each suspension or expulsion, a description of the action that led to the suspension or expulsion.

(b) By August 15 of each year, each local education agency or entity operating a publicly funded community-based organization shall submit a report to the Office of the State Superintendent of Education disaggregated by each of the demographic categories identified in subsection (a)(1) of this section. The report shall include:

- (1) The students suspended for at least one and no more than 5 days;
- (2) The students suspended for at least 6 and no more than 10 days;
- (3) The students suspended for more than 10 days total;
- (4) The students who received more than one suspension in a school year;
- (5) The students who were referred to an alternative educational setting for the course of a suspension;
- (6) A description of the types of actions that led to the suspension or expulsion;
- (7) The students expelled; and
- (8) The students who voluntarily or involuntarily transferred or withdrew from the school during the school year.

**§ 38-236.06. Support for positive school climate and trauma-informed educational settings.**

(d) Within 2 years after August 25, 2018, and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:

- (1) Be based upon rigorous research techniques, including quantitative and qualitative methods;
- (2) Draw on the information maintained and reported pursuant to § 38-236.09, as well as other sources, with a particular focus on:
  - (A) Ensuring the fidelity of data reporting;
  - (B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this part;
  - (C) Barriers schools face in implementing the policies and practices required pursuant to this part; and
  - (D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;
- (3) Provide specific recommendations for further action by the Council, executive branch, and schools; and
- (4) Provide suggestions for further research.

**§ 38-236.08. Suspension and expulsion report.**

Within 180 calendar days of September 19, 2013, the Office of the State Superintendent of Education shall submit to the Mayor and the Secretary to the Council a report with findings and recommendations to aid each educational institution to eliminate out-of-school suspensions and expulsions, except for those students who pose a reasonable threat of death or serious bodily harm to themselves or others or violate part A of this subchapter [§ 38-231 et seq.].

**§ 38-236.09. Annual reporting requirements.**

(a) Each local education agency and entity operating a publicly funded community-based organization shall maintain data for each student that includes:

- (1) Demographic data including:
  - (A) The campus attended by the student;
  - (B) The student's grade level;
  - (C) The student's gender identification;
  - (D) The student's race;
  - (E) The student's ethnicity;

- (F) Whether the student receives special education services;
- (G) Whether the student is classified as an English language learner; and
- (H) Whether the student is considered at-risk as defined in § 38-2901(2A);

(2) Discipline data including:

- (A) Total number of in-school suspensions, out-of-school suspensions, involuntary dismissals, and emergency removals experienced by the student during each school year;
- (B) Total number of days excluded from school;
- (C) Whether the student was referred to an alternative education setting for the duration of a suspension, and whether the student attended;
- (D) Whether the student was subject to a disciplinary unenrollment during the school year;
- (E) Whether the student voluntarily withdrew or voluntarily transferred from the school during the school year;
- (F) Whether the student was subject to referral to law enforcement;
- (G) Whether the student was subject to school-related arrest; and
- (H) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary unenrollment, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest and, for students with disabilities, change in placement; and

(3) Special education services data, including whether a student received during the school year:

- (A) A functional behavioral assessment;
- (B) An updated behavior improvement plan; or
- (C) A manifestation determination review, including the number of suspension days that triggered the review, whether the suspension days were cumulative, and the outcome of the review.

(b) By August 15 of each year, each local education agency or entity operating a publicly funded community-based organization shall submit a report to the Office of the State Superintendent of Education disaggregated by each of the demographic categories identified in subsection (a)(1) of this section. The report shall include:"

(1) The students suspended for:

- (A) At least one and no more than 5 days, and whether the suspension was an in-school suspension or an out-of-school suspension;
- (B) At least 6 and no more than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;
- (C) More than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

(2) The students who received more than one suspension in a school year and whether the suspensions were in-school or out-of-school suspensions;

(3) The students who were referred to an alternative educational setting for the course of a suspension;

(4) The students who received a school-based intervention rather than an in-school suspension, and a description of the school-based intervention;

(5) The students involuntarily dismissed:

- (A) At least once and no more than 5 times;
- (B) At least 6 times and no more than 10 times;
- (C) More than 10 times;



- (6) The students subject to emergency removals;
  - (7) The students subject to a disciplinary unenrollment, disaggregated by type of disciplinary unenrollment;
  - (8) The students who voluntarily withdrew or transferred;
  - (9) The students subject to referral to law enforcement;
  - (10) The students subject to school-related arrest;
  - (11) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary withdrawal, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest, and, for students with disabilities, change in placement;
  - (12) Whether the student received a functional behavior assessment, an updated behavioral improvement plan, or a manifestation determination review, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.), and the outcomes of those actions; and
  - (13) Whether the student was subject to suspensions exceeding the time limits described in § 38-236.04(b), and a summary of the written justification provided by the local education agency for those disciplinary actions.
- (c)(1) Each local education agency or entity operating a publicly funded community-based organization shall provide the requested data in subsection (b) of this section in a form and manner prescribed by the Office of the State Superintendent of Education.
- (2) The OSSE shall collaborate with local education agencies and publicly funded community-based organizations to develop consistent definitions for the types of misconduct and explanations of reasoning required to be maintained or reported pursuant to subsections (a)(2)(H) and (b)(11) of this section.
- (d) By December 15 of each year, beginning in 2016, the Office of the State Superintendent of Education shall publicly report on the data provided by local education agencies and community-based organizations in subsection (b) of this section during the preceding school year, including a relevant trend analysis. The report shall include a trend analysis based on available data, including data drawn from the Youth Risk Behavior Survey, school climate surveys, and any other available sources, of the exclusion of students who identify as lesbian, gay, bisexual, questioning of the student's sexual orientation, transgender, gender nonconforming, or questioning of the student's gender identity or expression.
- (e) Repealed.
- [(f)] The OSSE, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this section.

## **REGULATIONS**

### **5-A2101. Attendance records and reporting.**

6. Within sixty (60) days after the completion of each school year, an educational institution shall submit to OSSE the report described in D.C. Official Code § 38-203(i). Such report shall include attendance information in aggregate form, excluding individual student data.
7. Prior to the beginning of each school year, OSSE shall issue a report including the following information:
- (a) Truancy rates for each educational institution;
  - (b) Progress in improving attendance and reducing truancy for each educational institution; and
  - (c) Each educational institution's compliance with key attendance and truancy requirements.

**5-A2103. Absentee intervention and school-based student support teams.**

3. In addition to the report required at the end of each school year pursuant to D.C. Official Code § 38-203(i), an educational institution shall provide, upon request, student-level data and records evidencing the work of school-based student support teams.

**5-B2503. Policy for disciplinary actions.**

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

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

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.

**5-B2504. Policy for suspensions and expulsions.**

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.5-B2508. Review by the chancellor.

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.

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.

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Certification or training**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **MOUs, authorization, and/or funding**

#### **LAWS**

#### **§ 38-203. Enforcement; penalties.**

(a) An accurate daily record of the attendance of all minors covered by § 38-202 and this section shall be kept by the teachers of each educational institution. These records shall be open for inspection at all times by the Board, the State Superintendent of Education, school attendance officers, or other persons authorized to enforce this subchapter.

#### **§ 38-207. Authority of police over truant child.**

(a)(1) A law enforcement officer who has reasonable grounds to believe, based on the minor's age and other factors, that a minor is truant from any public, independent, private, or parochial school on a day and during the hours when the school is in session shall take that minor into custody and deliver the minor to the public, independent, private, or parochial school where the minor is presently enrolled, so long as the school is located in the District.

(2) If the minor is not currently enrolled at a public, independent, private, or parochial school, the law enforcement officer shall take the minor to the District of Columbia Public Schools placement office.

(3) If a minor is enrolled in a public, independent, private, or parochial school located within the District of Columbia, the educational institution shall receive that minor from a law enforcement officer during the hours when the school is in operation.

(b) On the request of a person who has reached the age of 18 years, graduated from high school, or received a general equivalency diploma, and who has previously been taken into custody pursuant to subsection (a) of this section, the Metropolitan Police Department shall seal all records relating to custody authorized by subsection (a) of this section.

(c) Within 2 business days of a minor student's 10th unexcused absence during a school year, the educational institution shall send the minor's parent:

- (1) Information from the Chief of Police about the compulsory attendance requirements and criminal penalties for violations of this chapter; and
- (2) A letter notifying the parent that he or she may be in violation of the school attendance requirements under this chapter and may be subject to prosecution.

#### **REGULATIONS**

No relevant regulations found.

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

##### **§ 2-1535.02. Bullying prevention task force.**

(c) The task force shall:

- (1) Provide guidance to the Mayor on the implementation of this subchapter;
- (2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);
- (3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;
- (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;
- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
- (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;
- (5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;
- (5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and
- (6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

##### **§ 38-236.06. Support for positive school climate and trauma-informed educational settings.**

(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of §§ 38-236.03 through 38-236.05 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

- (1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;
- (2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:
  - (A) Trauma and chronic stress, their effects on students and learning, and effective responses;
  - (B) Classroom management, positive behavioral interventions, and fostering positive school climate;
  - (C) Disciplinary approaches that utilize instruction and correction;
  - (D) Restorative practices and other evidence-based or promising behavioral interventions;

(E) Implementation of high-quality functional behavior assessments, behavioral intervention plans, and manifestation determination reviews, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 et seq.); and

(F) Implicit bias and culturally responsive corrective action techniques;

(3) Opportunities for local education agencies and schools to share promising practices regarding the topics in paragraph (2) of this subsection; and

(4) Not Funded.

## **REGULATIONS**

No relevant regulations found.

## **Funding appropriations**

### **LAWS**

#### **§ 38-236.07. School safety and positive climate fund.**

(a) There is established as a special fund the School Safety and Positive Climate Fund ("Fund"), which shall be administered by the Office of the State Superintendent of Education in accordance with subsection (c) of this section.

(b) Revenue from any annual appropriation shall be deposited into the Fund.

(c) Money in the Fund shall be used solely to support the activities described in § 38-236.06.

(d)(1) The money deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

## **REGULATIONS**

No relevant regulations found.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

##### **§ 2-1535.05. Retaliation.**

(c) An employee, volunteer, or youth who promptly and in good faith reports an incident of, or information on, bullying in compliance with the policy of the agency, educational institution, or grantee shall be immune from a cause of action for damages arising from the making of such report.

#### **REGULATIONS**

No relevant regulations found.

### **Community input or involvement**

#### **LAWS**

##### **§ 2-1535.02. Bullying prevention task force.**

(a) Within 90 days of September 14, 2012, the Mayor shall establish a bullying prevention task force.

(b)(1) The task force shall consist of representatives from a diversity of the educational institutions and agencies that will be affected by this subchapter, as well as community representatives, including:

- (A) Teachers;
- (B) Administrators from educational institutions and agencies;
- (C) School mental health professionals;
- (D) Parents, and legal guardians;
- (E) Youth;
- (F) Direct service providers; and
- (G) Advocates.

(2) In constituting this task force, the Mayor shall consider geographic and socioeconomic diversity as well as other forms of diversity.

(c) The task force shall:

- (1) Provide guidance to the Mayor on the implementation of this subchapter;
- (2) Within 180 days of September 14, 2012, publicize a model policy, which shall contain each of the components required in § 2-1535.03(b);
- (3) Assist educational institutions and agencies with developing policies in accordance with § 2-1535.03;
- (4) Compile, and make available to each agency, educational institution, and grantee, a list of free or low-cost methods for establishing the bullying prevention programs authorized in § 2-1535.06;
- (5) Within 180 days of receipt of the bullying prevention policies submitted pursuant to § 2-1535.03(c), review each adopted policy for compliance with the requirements of § 2-1535.03(b);
- (5A) Appropriately engage parents and legal guardians of youth served by each agency in bullying prevention efforts;

(5B) Provide to each agency and parents or legal guardians a referral list of community-based programs or similar resources that mitigate bullying and address identified behavioral health needs as necessary;

(5C) Provide consultation and review evidence-based school climate data to ensure full implementation of the law; and

(6) Promulgate guidelines to assist the Mayor in evaluating the effectiveness of the bullying prevention policies that have been established.

(d) The task force shall disband by August 2018; provided, that at the discretion of the Mayor, a one-year extension may be granted by the Mayor.

#### **§ 38-174. Chancellor; appointment; duties.**

(c) The duties of the Chancellor shall include to:

(6) Obtain parental input as required by the No Child Left Behind Act of 2001, approved January 8, 2002 (Pub. L. No. 107-110; 115 Stat. 1425), and in accordance with the rules promulgated pursuant to this chapter;

(7) Hold public meetings, at least quarterly;

### **REGULATIONS**

#### **5-B2500. General policy.**

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

(f) Community conference;

(g) Community service;

(u) Referral to community based organizations.

### **Other or Uncategorized**

### **LAWS**

#### **5-E2401. Student Bill of Rights.**

1. Each student has the right to a meaningful public education, the maintenance of high educational standards, and a system of public education that adequately and equitably seeks to meet the need of the individual student.

2. Each student has the right to access to a meaningful curriculum and the right to voice his or her opinions and provide input into the development of the public school curriculum.

3. Each student has the right to express his or her views in matters that affect the quality and content of the education that is provided, including but not limited to, the right to participate individually or through elected representatives in the development of the rules and regulations to which the student is subject.

4. Each student has the right to adequate and timely notice of all rules, regulations, policies and sanctions to which the student is subject. All rules and regulations shall be available in writing and be accessible to all students. A copy of the rules of the Board of Education shall be maintained in the library, guidance office, or other appropriate place in each public school in the District of Columbia. A copy of § 2401 (Student Bill of Rights) shall be provided to each student upon registration at a public school in the District of Columbia

5. Each student has the right to physical safety and the protection of personal property, including the right to safe and sanitary school buildings and facilities.



6. Each student has the right to adequate consultation with teachers, counselors, administrators, and other school personnel.
7. Each student has the right to free election of peers in student organizations, as well as the right to seek and hold office.
8. Each student and the student's parents or authorized representatives have the right to inspect and review the official records of the school system that relate directly to the individual student, as provided in § 2601. A student or the student's parent or guardian shall be notified if adverse comments are placed in his or her official records.
9. Students have the right to participate in school activities without being subject to unlawful discrimination because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, handicapping condition, or any other basis of unlawful discrimination under the laws of the District of Columbia.
10. Where access to participation in programs or activities is on a competitive basis, each student has the right to an opportunity to compete on an equal basis.
11. A student has the right to refuse to participate in school activities which are contrary to the student's moral, religious, or political beliefs.
12. Each student shall have the right to respect from teachers, other students, administrators, and other school personnel, and shall not be subject to ridicule, harassment, or any punishment that is demeaning or derogatory. No student shall be subject to corporal punishment.
13. Principals, assistant principals, school security personnel and other designated individuals may conduct, or cause to be conducted, such searches of students as are reasonable to maintain the security, discipline and educational atmosphere of a school building, event or program, in accordance with the provisions § 2404.
14. Each student shall have the right to use reasonable physical means to defend himself or herself from assault or physical abuse, and shall not be subject to suspension for using limited, reasonable, physical means to restrain another person from physically assaulting or harming a third person.
15. Each student has the right to present petitions, complaints, or grievances to school authorities and the right to receive prompt, authoritative replies from school officials regarding the disposition of the student's petitions, complaints, or grievances. The procedure for presenting complaints and grievances is set forth in § 2405.4 of this Chapter. The alternative procedure for presenting complaints alleging incidents of harassment and sexual harassment is set forth in § 2405.5 of this Chapter.
16. Where a student is entitled to a hearing pursuant to this title, the hearing shall be impartial, and the student shall be afforded all other rights set forth in the hearing procedures.
17. Each student shall have the right to exercise his or her constitutional rights of free speech, assembly, and expression without prior restraint, so long as the exercise of these rights does not substantially interfere with the rights of others.
18. The exercise of the constitutional rights of free speech, assembly, and expression by students shall include, but is not necessarily limited to, the following:
  - (a) Wearing political buttons, armbands, or other badges of symbolic expression;
  - (b) Organizing and participating in political and social organizations;
  - (c) Use of student bulletin boards without prior censorship, but not school bulletin boards without approval of the use which shall be reasonably provided by the schools;
  - (d) Repealed.
  - (e) Preparation and distribution of posters, newspapers, or other printed matter, on or off school grounds, and the reasonable use of the school public address system subject to standards adopted by

the student government organization in cooperation with school officials; provided, that such distribution or use shall be limited to reasonable times before, during, and after school hours in order to prevent undue interference with classroom activities and the rights of others; and

(f) Free expression and defense of views and opinions without having that expression affect the student's examinations, grades, academic achievement, or participation in extra-curricular activities.

## **REGULATIONS**

No relevant regulations found.

## **Government-Sponsored, Publicly Available Websites or Other Resources on School Discipline**

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by District of Columbia provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
Attendance and Behavior, District of Columbia Public Schools (DCPS)	Provides information and weblinks to resources pages addressing bullying prevention, behavior and discipline, and student attendance and support.	<a href="https://dcps.dc.gov/page/attendance-and-behavior">https://dcps.dc.gov/page/attendance-and-behavior</a>
Bullying Prevention in DCPS, DCPS	Provides information on bullying prevention, including definitions of bullying behavior and links to additional resources.	<a href="https://dcps.dc.gov/bullying">https://dcps.dc.gov/bullying</a>
DCPS Philosophy and Approach to Student Behavior and Discipline, DCPS	Presents guidelines for schools to create safe and effective learning environments through effective student behavior and discipline strategies.	<a href="https://dcps.dc.gov/page/dcps-philosophy-and-approach-student-behavior-and-discipline">https://dcps.dc.gov/page/dcps-philosophy-and-approach-student-behavior-and-discipline</a>
Student Attendance and Support, Office of the Chief Operating Officer, DCPS	Provides information for schools on promoting regular school attendance with links to regulations, policies, and implementation protocols related to school attendance.	<a href="https://dcps.dc.gov/attendance">https://dcps.dc.gov/attendance</a>
Student Safety, DCPS	Provides information on school safety and approaches to ensuring the physical safety and security of school learning environments.	<a href="https://dcps.dc.gov/page/school-safe">https://dcps.dc.gov/page/school-safe</a>
School Mental Health Team, DCPS	Provides information on district service strategies to promote the development of healthy relationships, sound decision making, and effective regulation of emotions and behavior among students.	<a href="https://dcps.dc.gov/service/school-mental-health-team">https://dcps.dc.gov/service/school-mental-health-team</a>

Title	Description	Website address (if applicable)
<i>Documents</i>		
2013-14 Office of the State Superintendent of Education (OSSE) Bullying Policy, OSSE	State policy requiring all District agencies, grantees, and educational institutions that provide services to youth to adopt a bullying prevention policy outlining prevention, identification and reporting, and strategies for providing remedies to victims.	<a href="https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Bullying%20Policy.pdf">https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/OSSE%20Bullying%20Policy.pdf</a>
DCPS District-Wide Bullying Prevention Policy (November 2013), DCPS	District policy addressing bullying in District of Columbia's Public School that includes code of conduct, prevention, intervention, consequences and progressive discipline, professional development, reporting, investigating, protection, and complaints.	<a href="https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Bullying%20Prevention%20Policy.pdf">https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCPS%20Bullying%20Prevention%20Policy.pdf</a>
DCPS Attendance and Truancy Policy, (August 2018), DCPS	District policy conveying DCPS requirements on attendance and the protocols school officials must implement if a student is absent or truant.	<a href="https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/FINAL%20DCPS%20Attendance%20and%20Truancy%20Policy%2008-21-18.pdf">https://dcps.dc.gov/sites/default/files/dc/sites/dcps/page_content/attachments/FINAL%20DCPS%20Attendance%20and%20Truancy%20Policy%2008-21-18.pdf</a>
2016-17 Equity Reports, OSSE	Annual district and school-level data reports providing transparent and comparable information on an annual basis related to equity across all DC schools, including equity in school disciplinary practices.	<a href="https://osse.dc.gov/page/equity-reports">https://osse.dc.gov/page/equity-reports</a>
Attendance and Discipline Report SY 2017-2018 (August 2018), DC Public Charter School Board	Annual report outlining trends in suspensions, expulsions, truancy, and attendance for the 2017 – 2018 school year.	<a href="https://www.dcpcsb.org/sites/default/files/report/SY%2017-18%20Attendance%20and%20Discipline%20Report.pdf">https://www.dcpcsb.org/sites/default/files/report/SY%2017-18%20Attendance%20and%20Discipline%20Report.pdf</a>
Discipline Plans, DC Public Charter School Board, Amended (October 26, 2015)	A description of a school's discipline policies and procedures is required as part of its charter application. The policy must include certain components.	<a href="https://www.dcpcsb.org/sites/default/files/report/2017-5-6%20Discipline%20Plans%20Policy_0.pdf">https://www.dcpcsb.org/sites/default/files/report/2017-5-6%20Discipline%20Plans%20Policy_0.pdf</a>
DC Public Charter School Board - Attendance and Truancy Policy, Amended December 19, 2016	The policy establishes truancy and chronic truancy levels for DC public charter schools.	<a href="http://www.dcpcsb.org/sites/default/files/Attendance%20and%20Truancy%20Policy%20SIGNED.pdf">http://www.dcpcsb.org/sites/default/files/Attendance%20and%20Truancy%20Policy%20SIGNED.pdf</a>

Title	Description	Website address (if applicable)
<i>Other Resources</i>		
DC School Report Card	Includes state, LEA, and school level discipline and attendance data	<a href="https://www.dcschoolreportcard.org/">https://www.dcschoolreportcard.org/</a>
Restorative Justice Trainings and Resources	Provides information on professional development and a monthly Community of Practice,	<a href="https://osse.dc.gov/page/restorative-justice-trainings-and-resources">https://osse.dc.gov/page/restorative-justice-trainings-and-resources</a>
District of Columbia Attendance Report, SY 2017-18, Published November 30, 2018	Required annual report on attendance (chronic absenteeism and truancy) in the District of Columbia.	<a href="https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017-18%20School%20Year%20Attendance%20Report.pdf">https://osse.dc.gov/sites/default/files/dc/sites/osse/publication/attachments/2017-18%20School%20Year%20Attendance%20Report.pdf</a>
District of Columbia Discipline Report, SY 2017-18	Required annual report on discipline in the District of Columbia.	<a href="https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2017-18%20School%20Year%20Discipline%20Report.pdf">https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2017-18%20School%20Year%20Discipline%20Report.pdf</a>