

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176) and amended by the Public Education Reform Amendment Act of 2007, (D.C. Law 17-9), D.C. Official Code § 38-2602(b)(11)) (2008 Supp), hereby gives notice of the her intent to adopt proposed rules to amend Chapter 25 of Title 5 of the *District of Columbia Municipal Regulations* (DCMR) by adding a new Chapter A25, entitled “Student Discipline”, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The proposed regulations provide state level standards for consistent school disciplinary policy in District of Columbia Public Schools system and public charter schools. The proposed regulations establish clear expectations, balancing individual rights and responsibilities with the rights and responsibilities of the school community. Local education agencies have the discretion to refine and implement a disciplinary regulatory process best suited to the needs of their school community in compliance with these regulations. The regulations recognize that effective school discipline involves a broad range of strategies and interventions to maximize learning time and minimize classroom disruption or removal from classrooms due to misbehavior.

Title 5 of the DCMR is amended to add a new Chapter A25 to a new Subtitle A to read as follows:

CHAPTER A25 STUDENT DISCIPLINE

A2500 GENERAL POLICY

- A2500.1 The purpose of this chapter is to promote a safe and orderly learning environment, by balancing student rights and responsibilities with the rights and responsibilities of the school community.
- A2500.2 The regulations provide guidance to develop a broad spectrum of strategies to address student behavior and discipline to minimize the disruption of academic instruction.

A2501 DISCIPLINARY POLICY AND PROCEDURES

- A2501.1 Each LEA shall adopt and implement written disciplinary policies and procedures in accordance with this chapter, and where applicable, an LEA’s charter, which shall employ to the extent practicable, intervention and remediation strategies in order to address student discipline in a fair and appropriate manner with minimal

disruption to a student's instructional program. To this end, LEAs are encouraged to utilize school-wide strategies preventing misbehavior that includes the adoption of research-based social-emotional learning curricula best suited to meet the needs of the school community.

A2501.2 Policies and procedures shall identify prohibited student conduct, the range of penalties which may be imposed for violations of the policies and procedures, utilize a progression of disciplinary interventions and strategies to prevent and address misbehavior, and specify procedures to address without limitation the following:

- (a) Maintenance of disciplinary records and information;
- (b) Distribution of the student disciplinary policy and procedures to students, their parents or guardians, within thirty (30) days after the first day of each school year, and availability on an LEA's website or through other affective means of communication;
- (c) Use of in-school and off-site suspension including without limitation clearly defined procedures to address the:
 - (1) Appropriate supervision for in-school suspension in a designated area within the school building or other appropriate facility; and
 - (2) Sparing use of off-site suspension, and only in response to serious infractions, including without limitation situations where a student may cause harm to self or others;
- (d) Use of expulsion in extreme and rare occasions as a response to only the most serious misconduct or behaviors, which are illegal, could cause severe harm to self or others, or are a major disruption to the school environment;
- (e) Requiring that each student has an education plan in place before a suspension or expulsion period begins;
- (f) Assuring that students are allowed to re-enter school upon completion of an off-site suspension or expulsion;
- (g) Disciplining students with disabilities and changes in placement for students with disabilities who violate codes of conduct, in compliance with the Individuals with Disabilities Education Act, and applicable regulations there under, including without limitation, Section 20 U.S.C. § 1412(a)(5); and 34 C.F.R. § 300.530

et seq; and include safeguards to prevent disproportional disciplinary actions against this population; and

- (h) Applicability of the disciplinary code during regularly scheduled school hours and at other appropriate times and places as specified by the LEA.

A2502 NOTIFICATIONS AND HEARINGS

A2502.1 The policies and procedures shall provide for notification with regard to student misconduct and ensure proper notification to students, parents or guardians along with an opportunity for a hearing prior to a student's suspension or expulsion. These procedural safeguards shall include, but are not limited to the following:

- (a) Minimum notification time-frames;
- (b) Opportunities for student conferences; and
- (c) Procedures for:
 - (1) Student disciplinary hearings; and
 - (2) Appeals from a disciplinary hearing decision.

A2502.2 Policies and procedures shall include:

- (a) A requirement that a student under the age of fourteen (14) years of age, who has been suspended off-site or expelled, may not leave school grounds during school hours unless accompanied by a parent, guardian or their designee; and
- (b) An opportunity for a student fourteen (14) years of age or older, who has been suspended or expelled to be accompanied from school grounds by a parent, guardian or their designee.

A2503 REPORTS

A2503.1 Each LEA shall submit a copy of its disciplinary policy and procedure developed in accordance with this chapter to the Office of the State Superintendent of Education no later than July 30, 2009, and within thirty days after any revision.

A2503.2. Each LEA shall report to the Office of the State Superintendent of Education as requested, on the status of disciplinary actions taken.

Information provided in the report shall include without limitation: numbers of suspensions, expulsions, appeals, and hearings conducted, and the categories of behavior subject to disciplinary action (e.g., bullying, fighting, illegal activity, vandalism, etc.).

A2599 DEFINITIONS

Unless the same term or phrase is defined in this Section A2599, the definitions set forth in Title 5, Chapter 20, Section 2099 are incorporated by reference and shall apply to the terms and phrases used in this chapter.

“Alternative setting or school program”- an educational program other than that in which the student was placed prior to disciplinary action.

“Expulsion” - the denial of the right of a student to attend a school or program, including all classes and school activities, except alternative settings, for one (1) calendar year.

“In-school suspension” – the mandatory assignment of a student to attend an assigned alternative school program in lieu of previously assigned curricular activities for a period not to exceed fifteen (15) school days.

“Local Education Agency or LEA” - the District of Columbia Public School system and/or any individual or group of public charter schools operated under a single charter in the District of Columbia.

“Off-site school suspension” — the mandatory assignment of a student to attend another appropriate site or alternative school program in lieu of previously assigned activities for a period not to exceed ninety (90) days.

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

Comments on this rule should be submitted, in writing, to Kristin Yochum, 441 4th Street, NW Suite 350 North, Washington, DC 20001 within thirty (30) days of the date of publication of this notice in the D.C. Register. Additional copies of this rule are available from the above address and on the Office of the State Superintendent of Education website at osse.dc.gov.