

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF FINAL RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172), and Mayor’s Order 2007-186 (August 10, 2007), hereby gives notice of the adoption of the following rule. This final rule will amend Section 2408 of Title 5 of the *D.C. Municipal Regulations* (DCMR) to revise the regulations governing dress codes and uniforms in the DCPS to permit the implementation and enforcement of mandatory uniform policies and to establish rules governing the implementation and enforcement of such policies.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on March 27, 2009 ( 56 DCR 2443). No changes have been made to the text of the proposed rules. Additionally, the Mandatory Uniform Policies Regulation Approval Resolution of 2009 (PR18-202) was submitted to the Council on April 7, 2009. The Council has neither approved nor disapproved of the rulemaking during the required 45 day period of Council review and they are therefore deemed approved pursuant to section 103 of the Act. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

**Section 2401.18(d) of Title 5 of the DCMR is repealed**

**Section 2408 of Title 5 of the DCMR is repealed**

**Title 5 of the DCMR is amended to add a new Chapter B24 and a new section B2408 to read as follows:**

**CHAPTER B24      STUDENT RIGHTS AND RESPONSIBILITIES**

**B2408      DRESS CODES/UNIFORMS**

B2408.1      Each District of Columbia Public School shall promulgate a local dress code or uniform policy for that school. The policy shall be established by the principal in consultation with the faculty, local school parent groups, and students.

B2408.2      The local school dress code or uniform policy shall be as follows:

- (a)      Clearly defined;
- (b)      Not be gender specific;
- (c)      Designed to support rational and legitimate school objectives including, but not limited to, the following:

- (1) Neatness and cleanliness;
  - (2) Elimination of distractions and disruptions to the education process;
  - (3) Health and safety considerations; and
  - (4) Respect for the rights of others;
- (d) Include the following principles:
- (1) Excessively dirty and/or torn clothing may not be worn in school;
  - (2) Students shall, when present in areas where the possibility of injury to the student or to others exists, such as near rotating machinery, power tools, or chemicals, wear appropriate protective clothing, gloves, eye goggles, and/or other devices needed for health and safety;
  - (3) Students participating in sports may be required to wear protective clothing and to change hairstyles for their safety and the safety of others;
  - (4) Bare or stockinged feet are not permitted in schools, outside of locker rooms;
  - (5) Non-prescriptive sunglasses, hats, clothing that exposes armpits, a bare back or midriff, see-through clothing, and accessories with protruding metal spikes are not be worn in school;
  - (6) Extremes in style and fit and extremes in style of grooming, as determined by the principal, will not be permitted. Boots, flat-heeled dress shoes and enclosed toe sandals and athletic shoes are permitted at all levels;
  - (7) Coats and raingear are not subject to the dress code, and a student's choice of such clothing will not be disturbed, provided it is not emblazoned with vulgar or obscene words or pictures, or badges or slogans disruptive of school order or which encourage illegal acts; and
  - (8) No student shall wear, possess, use, distribute, display or sell any clothing, jewelry, emblem, blade, symbols, sign or

other things which are evidence of affiliation with drugs, alcohol, violence or gang related activities, other criminally motivated organizations, or which exhibit profane or obscene language/gestures.

- B2408.3 Conformance with and enforcement of a local school dress code/uniform policy shall comply with all existing rules of the District of Columbia Public Schools, as well as applicable District and federal laws, except that the specific corrective and disciplinary measures described in § B2408.13 shall be applicable to dress code/uniform violations in lieu of the general disciplinary measures found in Chapter B25.
- B2408.5 The Chancellor shall develop policies, standards, and appropriate procedures for the implementation of this section.
- B2408.6 The Chancellor of the District of Columbia Public Schools hereby authorizes principals of District of Columbia Public Schools to establish and implement mandatory uniform policies for the 2009-2010 school year and successive school years.
- B2408.7 For those public schools that have already established mandatory uniform policies, the Chancellor hereby authorizes the principals to implement, monitor, and enforce compliance with them for the remainder of the 2008-2009 school year, and each successive school year, provided that:
- (a) The principal has sought and received parental and student input regarding the policy, and a majority of the parents support the policies;
  - (b) The principal has established mechanisms to accommodate those families requiring financial assistance to obtain a uniform; and
  - (c) The principal has established and published progressive corrective measures to address violations of the mandatory uniform policy.
- B2408.8 The term “Uniform”, for the purposes of a mandatory uniform policy, is defined as clothing of the same style and/or color and standard look, as agreed upon by the school community.
- B2408.9 Effective March 5, 2009, all students attending schools that have satisfied the requirements of section B2408.7 shall be required to dress in the uniform as approved by the principal and in accordance with any dress code established by the principal, or be subject to corrective measures consistent with section B2408.13. A student may not be disciplined for non-compliance where, for example, his or her otherwise conforming top is a different shade of the color adopted by the principal for its uniform.

- B2408.10 A mandatory uniform policy must accommodate students' religious expression, i.e. wearing of head coverings as part of a religious practice.
- B2408.11 Exceptions to a mandatory uniform policy will be permitted when:
- (a) Uniforms of nationally recognized youth organizations such as the Boy Scouts and Girl Scouts are worn on regular meeting days; or
  - (b) Uniforms of nationally recognized military academies and JROTC programs are worn on regular meeting days;
- B2408.12 A mandatory uniform policy shall not prevent a student from wearing a button, armband, or other item guaranteed by the First Amendment to the U.S. Constitution unless the button or other item is related to gang, gang membership, gang activity, or other prohibited activity as described in any dress code established by the principal pursuant to subsection B2408.2.
- B2408.13 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. Additionally:
- (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.
- B2408.14 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.
- B2408.15 A fourth offense of a mandatory uniform policy may subject a student, at the principal's discretion, to on-site suspension.
- B2408.16 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.

- B2408.17 Each principal implementing a mandatory uniform policy shall establish a uniform bank for receipt of donated and substitute clothing to be loaned on a daily basis to non-compliant students. Any student allowed to borrow an item of clothing from the bank in order to become compliant shall be required to return it at the end of the school day.
- B2408.18 Students who are non-compliant because they require financial assistance in obtaining a uniform shall not be subject to corrective or disciplinary action.
- B2408.19 Each principal implementing a mandatory uniform policy shall establish mechanisms to accommodate families and students who may require financial assistance in obtaining a uniform.

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

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

**Chapter 25 of Title 5 is repealed**

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

**CHAPTER B25 STUDENT DISCIPLINE**

B2500	GENERAL POLICY
B2501	APPLICABILITY
B2502	GROUND FOR DISCIPLINARY ACTION
B2503	POLICY FOR DISCIPLINARY ACTIONS
B2504	POLICY FOR SUSPENSIONS AND EXPULSIONS
B2505	PROCEDURES FOR SUSPENSIONS AND EXPULSIONS
B2506	PROCEDURES FOR DISCIPLINARY HEARINGS
B2507	HEARING OFFICER RECOMMENDATIONS
B2508	REVIEW BY THE CHANCELLOR
B2509	RE-ENTRY FOLLOWING EXPULSION
B2510	PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY
B2599	DEFINITIONS

**B2500 GENERAL POLICY**

B2500.1 It is the policy of D.C. Public Schools (DCPS) that a safe environment conducive to learning shall be maintained. To build and maintain this environment, DCPS shall provide students, families, and staff with clear expectations and rules for appropriate school behavior. These rules must balance the responsibilities and rights of individuals and the responsibilities and rights of the school community.

These rules must reflect the individual's responsibility for contributing to a safe environment conducive to learning and the need for mutual respect and cooperation among all segments of the school community.

- B2500.2 DCPS is committed to helping students learn the expectations and rules for appropriate school behavior and the range of disciplinary responses for inappropriate or disruptive behavior. DCPS will recognize and encourage students who exhibit appropriate, non-disruptive behavior. DCPS will encourage prevention and intervention strategies to prevent inappropriate behavior. To that end all available resources, subject to budgetary limitations, shall be utilized, including preventive and responsive interventions that support students' needs.
- B2500.3 When a student's behavior disrupts the school community's safe learning environment, DCPS will use a range of disciplinary responses intended to change and manage inappropriate behavior. In administering disciplinary responses, DCPS will work with students to correct inappropriate behavior. Students will be enabled and encouraged to reflect on their actions, to learn from mistakes, and to restore any relationships that have been negatively impacted.
- B2500.4 Whenever possible, prevention, intervention, and remediation strategies shall be used in addition to disciplinary responses at all stages of the disciplinary process, including students transitioning from Suspension or Expulsion.
- B2500.5 DCPS shall involve family members in efforts to determine the causes of misbehavior and in efforts to support appropriate school behavior.
- B2500.6 Options for prevention, intervention, and remediation shall include, but not be limited to:
- (a) Anger management;
  - (b) Attendance intervention plans;
  - (c) Behavior intervention plan;
  - (d) Behavior log/behavior progress report;
  - (e) Behavior redirection;
  - (f) Community conference;
  - (g) Community service;
  - (h) Conflict resolution;
  - (i) Crime awareness/prevention programs;

- (j) Diverse instructional strategies;
- (k) In-school program restructuring (schedule change);
- (l) Individual or group counseling;
- (m) Intervention by guidance counselor or mental health professional;
- (n) Mediation, including teacher/student mediation and multi-party dispute resolution;
- (o) Mentoring;
- (p) Parent conference;
- (q) Parent observation of student;
- (r) Positive feedback for appropriate behavior;
- (s) Positive behavior supports
- (t) Problem solving conferences;
- (u) Referral to community based organizations;
- (v) Referral to substance abuse counseling service;
- (w) Rehabilitative programs;
- (x) Restitution;
- (y) Restorative justice strategies;
- (z) Social skills instruction;
- (aa) Student support team meeting; and
- (bb) Other appropriate intervention strategies.

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

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

- B2500.9 Disciplinary responses shall be logical, appropriate, and instructive. Disciplinary responses shall consider factors such as:
- (a) The nature of the infraction;
  - (b) Circumstances relating to the infraction;
  - (c) The age of the student;
  - (d) The student's previous behavioral history;
  - (e) Previous participation in counseling or conflict resolution efforts such as peer mediation;
  - (f) Whether injury occurred;
  - (g) Whether a weapon or controlled substance was involved;
  - (h) The safety of other students and staff;
  - (i) The educational needs of other students;
  - (j) The educational needs of the student to be disciplined (including those enumerated in an IEP or a plan issued pursuant to § 504 of the Rehabilitation Act of 1973, approved September 26, 1973 (87 Stat. 355; 29 U.S.C. § 794)); and
  - (k) Extenuating circumstances.
- B2500.10 Disciplinary responses, as defined in § B2502 of this chapter, shall be aimed, to the extent practicable under the circumstances, to enable students to continue their instructional program.
- B2500.11 Staff shall implement disciplinary responses in a progression, beginning with the least severe appropriate response, within the range of permissible disciplinary responses as enumerated in § B2502.
- B2500.12 Disciplinary responses shall include, but not be limited to, the following strategies:
- (a) Verbal redirection/reprimand;
  - (b) Teacher/student conference;
  - (c) Parental contact (written or by phone);

- (d) Parent conference;
- (e) Temporary Removal of Student from Classroom;
- (f) In-School Disciplinary Action;
- (g) Behavior contract;
- (h) Grade reduction for Academic Dishonesty only;
- (i) On-site Short-Term Suspension (one (1) – five (5) school days for Secondary students or one (1) – three (3) school days for Elementary students);
- (j) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
- (k) Off-site Medium-Term Suspension (six (6) – ten (10) school days), except in response to unexcused tardiness or absence;
- (l) Off-site Long-Term Suspension (eleven (11) - ninety (90) school days), except in response to unexcused tardiness or absence; and
- (m) Expulsion (off-site Suspension for one calendar year).

- B2500.13 Except for those corrective and disciplinary measures permitted pursuant to § B2408 of this title, involuntary transfers pursuant to Chapter 21 shall not be used as a disciplinary response.
- B2500.14 Students shall receive adequate and timely notification of student infractions and disciplinary responses.
- B2500.15 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to students and parents within thirty (30) days after the start of each school year or upon initial enrollment, whichever occurs later.
- B2500.16 A copy of the DCPS policies and rules regarding student discipline shall be distributed or made available to school staff within thirty (30) days after the start of each school year, or upon initial employment, whichever occurs later.
- B2500.17 All oral communications, including conferences, appeals, and hearings conducted with any student, parent, or guardian shall be conducted with interpretation services when necessary to ensure effective communication. Interpretation service shall include a qualified interpreter, as that term is defined in D.C. Official Code § 2-1901 (2007 Rpl.) or DCPS staff member who is fluent in the individual's native

language. A certified sign language interpreter shall be provided for any student, parent, or guardian who is deaf or hard of hearing upon request.

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

## **B2501 APPLICABILITY**

- B2501.1 The provisions of this chapter shall be enforceable by school authorities, as follows:
- (a) When the student is on school grounds;
  - (b) When the student is on or off school grounds participating in or attending any function or activity, including field trips, class trips, extracurricular activities, or athletic contests, that are sponsored by or are under the auspices of DCPS;
  - (c) When the student is off school grounds and traveling on transportation provided by DCPS and the activity involves any conduct prohibited by this chapter;
  - (d) When the student commits a prohibited offense that occurs during before-school or after-school programs; and
  - (e) When a student has committed a prohibited offense off school grounds or outside regular school hours that results in a significant disruption to the school environment.

## **B2502 GROUNDS FOR DISCIPLINARY ACTION**

- B2502.1 Tier I behaviors are those behaviors that are insubordinate or cause minor disruptions to the academic environment but do not involve damage to school property or harm to self or others. Tier I behaviors result in classroom-level disciplinary responses that may be elevated to administrative response if they are not successfully abated by the teacher or the appropriate school-level committee.
- (a) The following behaviors shall be considered Tier I behaviors:
    - (1) Refusal to present school-issued identification upon request;

- (2) Attending class without required class materials or assigned work;
  - (3) Off-task behaviors that demonstrate disengagement from classroom learning;
  - (4) Behaviors that disrupt or interfere with classroom teaching and learning;
  - (5) Unexcused lateness for school or class;
  - (6) Inappropriate displays of affection;
  - (7) Excessive noise in the classroom, hall, or school building;
  - (8) Running in the classroom, hall, or school building;
  - (9) Communicating with staff and peers in a manner that is not polite, courteous, or respectful;
  - (10) Directing profanity or obscene/offensive gestures toward peers;
  - (11) Refusal to comply with staff instructions, or classroom or school rules; and
  - (12) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is insubordinate or causes minor disruption to the academic environment but does not involve damage to school property or harm to self or others.
- (b) Disciplinary responses for Tier I behaviors shall include:
- (1) Verbal redirection or reprimand;
  - (2) Teacher/student conference;
  - (3) Parental contact in writing or by phone;
  - (4) Teacher/parent conference;
  - (5) Temporary Removal of Student from Classroom;
  - (6) In-School Disciplinary Action;
  - (7) Behavior contract; and

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

B2502.2 Tier II behaviors are those behaviors not specifically enumerated in any other tier in this chapter that cause disruption to the academic environment, involve damage to school property, or may cause minor harm to self or others. Tier II behaviors result in school-based and administrative disciplinary responses.

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

- (3) Parental contact in writing or by phone;
- (4) Administrator/parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) In-School Disciplinary Action;
- (7) Behavior contract;
- (8) Other school-based consequences as approved by a person designated by the Chancellor; and
- (9) In the case of non-compliance with an approved dress code or uniform policy, disciplinary actions described in section B2408.16 of this title.

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

- (a) The following behaviors shall be considered Tier III behaviors:
  - (1) Inappropriate Use of DCPS Computer or Network (restricted websites, offensive emails);
  - (2) Sale or Distribution of any item without authorization;
  - (3) Possession or Distribution of obscene or pornographic material on school premises;
  - (4) Possession or Use of tobacco;
  - (5) Use of alcohol;
  - (6) Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia;
  - (7) Unauthorized Possession, Use, or Distribution of over-the-counter medication;
  - (8) Verbal, written, or physical Threat to person or property (including intimidating postures);

- (9) Obscene, seriously offensive, or abusive language or gestures;
- (10) Causing disruption on school property or at any DCPS-sponsored or supervised activity;
- (11) Gambling;
- (12) Communicating slurs based on actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, or place of residence or business, including derogatory sexual language;
- (13) Engaging in Sexual Acts on school premises or at school-related functions;
- (14) Leaving school without permission;
- (15) Academic Dishonesty;
- (16) Forgery;
- (17) Lying to or giving misleading information to school staff;
- (18) Posting or distributing material or literature that is disrespectful, demeaning, humiliating, or damaging to students and/or staff. This includes posting material on internet or sending material electronically (via email or cell phone);
- (19) Engaging in behavior that demonstrates Gang/neighborhood crew affiliation (displaying clothing or gestures associated with Gangs);
- (20) Hazing;
- (21) Bullying, or using humiliating, or intimidating language or behavior, including Internet Bullying;
- (22) Possession of tools or instruments which school administrators deem could be used as weapons;
- (23) Engaging in reckless behavior that may cause harm to self or others;
- (24) Extortion;

- (25) Fighting where there is no injury and no weapon;
- (26) Trespassing;
- (27) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that causes significant disruption to the academic environment or causes harm to self or others;
- (28) Documented Pattern of Persistent Tier II Behavior

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

- (1) Verbal redirection/reprimand;
- (2) Teacher/student conference or administrator/student conference;
- (3) Parental contact (written or by phone);
- (4) Parent conference;
- (5) Temporary Removal of Student from Classroom;
- (6) Behavior contract;
- (7) In-School Disciplinary Action;
- (8) Grade reduction for Academic Dishonesty;
- (9) On-site Short-Term Suspension with provision of appropriate intervention services;
- (10) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence; and
- (11) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence.

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

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

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

- (b) Disciplinary responses for Tier IV behaviors include:
- (1) Off-site Short-Term Suspension, except in response to unexcused tardiness or absence;
  - (2) Off-site Medium-Term Suspension, except in response to unexcused tardiness or absence; and
  - (3) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence.

B2502.5 Tier V behaviors are those behaviors not specifically enumerated in any other tier in this chapter that are illegal, cause significant disruption to the school operation, or cause substantial harm to self or others. Tier V behaviors result in off-site Suspension or Expulsion.

- (a) The following behaviors shall be considered Tier V behaviors:
- (1) Acts of Exceptional Misconduct at other schools;
  - (2) Vandalism/destruction of property over \$500;
  - (3) Selling or Distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia;
  - (4) The Possession or Distribution of alcohol;
  - (5) The Possession of drug paraphernalia or controlled substance, irrespective of the amount or type, pursuant to the criminal statutes of the District of Columbia, codified at D.C. Official Code § 48-1101 *et seq.* (2001)
  - (6) Causing serious disruption or damage to school's computer systems, electronic files, or network;
  - (7) Possession of fireworks or explosives;
  - (8) Theft or attempted theft using force, coercion, intimidation, or Threat of violence;
  - (9) Assault or physical attack on student or staff;
  - (10) Fighting which results in a serious physical injury;

- (11) Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury;
  - (12) Using an article that is not normally considered a weapon to injure another individual;
  - (13) Use, threatened use, or transfer of any weapon;
  - (14) Use, Possession, or bringing to school a loaded or unloaded firearm, as defined in 18 U.S.C. § 921 (2000), including but not limited to pistols, blank pistols, starter pistols, revolvers, rifles, and shotguns.
  - (15) Any behavior that violates the Gun-Free Schools Act;
  - (16) Deliberate acts that cause severe physical injury to another person (s).
  - (17) Assault with a weapon;
  - (18) Commission or attempted commission of any act of sexual assault or sexual aggression;
  - (19) Arson;
  - (20) Biohazard;
  - (21) Bomb threat;
  - (22) Any other intentional use of violence, force, coercion, Threats, intimidation, or other comparable conduct which causes or attempts to cause severe physical injury, substantial disruption, or obstruction of any lawful mission, process, or function of the D.C. Public Schools;
  - (23) Any behavior or other conduct not specifically enumerated in any other tier in this chapter that is illegal, causes significant disruption to the school operation, or causes substantial harm to self or others; and
  - (24) Documented Pattern of Persistent Tier IV Behavior.
- (b) Disciplinary responses for Tier V behaviors include:
- (1) Off-site Long-Term Suspension, except in response to unexcused tardiness or absence; and

- (2) Expulsion.
- (c) Weapons include, but are not limited to:
- (1) Weapons enumerated in D.C. Official Code §22-4514 (2001);
  - (2) Firearms as enumerated in 18 U.S.C. § 921 (2000);
  - (3) Knives (e.g. bowie, dirk, lock-blade, hunting, pen, pocket, switchblade, utility, boxcutter, etc.);
  - (4) Martial arts devices (e.g. Chinese stars, ‘nunchucks’, etc.);
  - (5) Air gun, bb gun, paintball gun;
  - (6) Other weapons or instruments designed to be or commonly used as weapons (e.g., chains, clubs, knuckles, night stick, pipes, studded bracelets);
  - (7) Mace, pepper spray, tear gas;
  - (8) Explosives;
  - (9) Slingshot;
  - (10) Bullets;
  - (11) Chemical weapon; and
  - (12) Razorblade or razor.

## **B2503 POLICY FOR DISCIPLINARY ACTIONS**

- B2503.1 All disciplinary actions shall be effected pursuant to the rules in this Chapter. Disciplinary actions that do not result in removal from the classroom for more than half a school day may be effected through procedures established by the principal at each school. The principal shall establish such procedures in writing and provide a written copy to students and parents. Procedures shall include a process for appealing such disciplinary responses to the principal.
- B2503.2 Principals shall ensure that accurate, appropriate documentation is maintained of all disciplinary actions.
- B2503.3 The Chancellor, at his or her discretion, may review and modify any proposed disciplinary action.

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

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

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

#### **B2504 POLICY FOR SUSPENSIONS AND EXPULSIONS**

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

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

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

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

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

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

- B2504.7 Any Suspension, including on-site Suspension, in excess of two (2) in a single semester must be approved by a person designated by the Chancellor.
- B2504.8 In accordance with the An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, approved February 4, 1925 (43 Stat. 806; D.C. Official Code § 38-201 *et seq.*), all children of compulsory school age are required to attend school or receive an equivalent education approved by the Office of the State Superintendent of Education.. Notwithstanding the parent's responsibility to ensure that the child attends a school, a student may be subject to Suspension or Expulsion from DCPS pursuant to this chapter.
- B2504.9 The principal or other school official may establish, or make a referral to, a special class or other supervised program for students who are suspended, subject to the approval of a person designated by the Chancellor. This special class or other supervised program may be located within a student's home school or at another appropriate DCPS site.
- B2504.10 A student who has been suspended or expelled shall have access to an Education Plan as follows:
- (a) If a student is suspended for fewer than eleven (11) days, the principal initiating the Suspension shall provide an Education Plan that meets the student's educational needs and allows the student to make up any class and homework assignments and exams without penalty.
  - (b) If a student is suspended for eleven (11) days or more or expelled, the student shall be placed in an Alternative Educational Setting that will allow the student the opportunity to continue to earn credits towards promotion or graduation requirements.
- B2504.11 Restitution and/or school service may be required in any case involving school property (e.g., arson, vandalism, burglary, robbery). The amount of restitution or type of school service shall be determined by a person designated by the Chancellor.
- B2504.12 If a student's Suspension or Expulsion is for a period exceeding the number of school days remaining in the school year, any remaining part of the term of the Suspension or Expulsion may be applied to the succeeding school year.
- B2504.13 Students younger than the age of fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours unless accompanied by a parent or guardian, or his or her designee. Students older than fourteen (14) who have been suspended or expelled shall not be allowed to leave school grounds during school hours until a parent or guardian, or his or her designee, has been contacted by phone or in person and given a reasonable opportunity to arrange for proper supervision of the student. If the parent or

guardian of a suspended student cannot be notified by phone or in person, the student must remain at school until the end of the school day.

- B2504.14 If the parent or guardian of a student who has been suspended cannot be contacted by phone or in person before the next school day, and the student arrives at school, he or she must remain in the building until a parent or guardian can be contacted and given a reasonable opportunity to arrange for proper supervision of the student or until the end of the school day. The student may be segregated and must be appropriately supervised during this time. Any such day will count toward fulfilling the term of the student's Suspension.
- B2505.15 Except in cases of immediate emergency Suspensions pursuant to § B2504.4, students shall remain in their regular assigned classroom or education setting until the final determination of the Suspension has been made.
- B2504.16 For students seeking to enroll in DCPS and who have been suspended or expelled from their current school, or who have withdrawn while disciplinary action is pending, a person designated by the Chancellor shall review the facts and circumstances regarding the student's Suspension, Expulsion, or withdrawal pending Expulsion, if the infraction for which the student was disciplined is one for which the student could have been disciplined within DCPS. The purpose of this review is to determine the appropriate placement within DCPS.

## **B2505 PROCEDURES FOR SUSPENSIONS AND EXPULSIONS**

- B2505.1 Authority to impose Suspensions and Expulsions is as follows:
- (a) On-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.
  - (b) Off-site Short-Term Suspension may only be authorized by the principal or a person designated by the Chancellor.
  - (c) Off-site Medium-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.
  - (d) Off-site Long-Term Suspension may be proposed by the principal and may be authorized only by a person designated by the Chancellor. A person designated by the Chancellor may modify the proposed action including rescission.
  - (e) Expulsion, except Expulsions for violations relating to the Gun-Free Schools Act, may be proposed in writing by the principal to a person designated by the Chancellor and may be authorized only by the head of the

Office of Youth Engagement pursuant to the recommendation of a person designated by the Chancellor.

- B2505.2 Expulsions for violations of the Gun-Free School Act may be modified only by the Chancellor.
- B2505.3 Any student who is to be suspended or expelled shall be given a conference with the school official responsible for proposing the disciplinary action, prior to the Suspension or Expulsion. In the event that a student is suspended pursuant to § 2504.4 due to emergency conditions, the conference shall be held no more than three (3) school days after the Suspension is initiated.
- B2505.4 The conference shall include a discussion of the following:
- (a) The grounds for disciplinary action as referred to in this chapter including a citation of the rule(s) upon which the action is based, and a description, in reasonable detail, of the facts and events upon which the disciplinary action is proposed;
  - (b) An explanation of the evidence or facts upon which the school official has determined that the student has committed an infraction, as defined in this chapter, including a summary of the recommended disciplinary action;
  - (c) An opportunity for the student to present the student's version of the facts or to explain the events or action upon which the alleged infraction is based;
  - (d) The decision regarding the infraction and the recommended disciplinary action to be provided after the student has had an opportunity to present his or her version of the facts and/or to explain the events or actions upon which the alleged infraction is based;
  - (e) A statement informing the adult student, or minor student's parent or guardian, of the right to examine the student's records and any official report of the incident prior to the imposition of the proposed discipline; and
  - (f) The student's rights to an appeal pursuant to § B2505.13 or to a hearing pursuant to § B2505.14.
  - (g) If the principal is recommending Long-Term Suspension or Expulsion, the principal shall report his or her findings and recommendations from the conference in writing to the student and parent or guardian and a person designated by the Chancellor. The principal shall also inform the student and parent or guardian in writing of disciplinary hearing procedures,

appeal rights, the intervention supports available to the student, and the requirements for readmission.

- B2505.5 The conference may include the parent or guardian, witnesses, and/or legal representative, but participation by such party(ies) shall not be required.
- B2505.6 Students and parents or guardians shall be provided written notice of all Suspensions and Expulsions as follows:
- (a) No student may be suspended or expelled, including on-site Suspension, without written notice to the adult student or minor student's parent or guardian.
  - (b) Following the oral notice provided to parents or guardians pursuant to § B2504.13 verifiable written notice using contact information provided by the parent or guardian (e.g. email, certified mail, or hand-delivered mail with a signature receipt) of all authorized or proposed Suspensions and Expulsions must be sent to the parent or guardian or to the adult student no later than one (1) school day after the decision by the principal or a person designated by the Chancellor to authorize or propose Suspension or Expulsion.
  - (c) The notice must inform the parent or guardian of the identity of the person who has the authority to modify or rescind the proposed Suspension or Expulsion. Adult students shall receive notification of their infraction in the same manner.
  - (d) The notice must also include a description of the infraction including a citation of the rule(s) upon which the action is based, a summary of the facts, the length of the proposed Suspension or Expulsion, the principal's recommendation for an Education Plan or Alternative Educational Setting; and a description of the student's right to appeal pursuant to § 2505.13 or to a hearing pursuant to § B2505.14.
  - (e) A student who has been given a notice of proposed Expulsion may be immediately placed on Suspension in accordance with the rules and procedures set forth in this section.
- B2505.7 A principal authorizing Short-Term Suspension shall submit the authorization to a person designated by the Chancellor within one (1) school day.
- B2505.8 A principal or school official proposing Medium- or Long-Term Suspension must immediately submit the proposal to a person designated by the Chancellor. A person designated by the Chancellor may authorize the proposed Suspension or modify it to reduce the number of days suspended.

- B2505.9 A principal or school official proposing Expulsion shall make a written recommendation for Expulsion to a person designated by the Chancellor no more than one (1) school day after the Expulsion conference. The principal's recommendation may be made based upon an initial recommendation from a teacher or other school official. The recommendation to expel shall be supported by sufficient written documentation to enable a person designated by the Chancellor to make an independent decision regarding Expulsion. A copy of this recommendation and any attendant documentation shall also be provided to the parent or guardian of the student involved.
- B2505.10 No more than five (5) school days after receiving the principal's findings, a person designated by the Chancellor shall either concur with or modify the recommended action. If a principal recommends Expulsion for bringing a weapon as defined in 18 U.S.C. § 921 into DCPS in violation of the Gun-Free Schools Act, only the Chancellor may modify the Expulsion recommendation.
- B2505.11 In determining whether to propose an Expulsion, a person designated by the Chancellor shall consider the factors enumerated in § B2500.
- B2505.12 If a person designated by the Chancellor does not concur with the recommended Expulsion, he or she may propose other disciplinary action.
- B2505.13 If a person designated by the Chancellor concurs with the recommended Expulsion, he or she shall immediately forward a written proposal for Expulsion to the head of the Office of Youth Engagement.
- B2505.14 A student who has been suspended for fewer than eleven (11) days may appeal the Suspension as follows:
- (a) A Short-Term Suspension may be appealed to the principal.
  - (b) A Medium-Term Suspension may be appealed to a person designated by a Chancellor.
  - (c) All appeals must be made by the student's parent or guardian or the adult student, either orally or in writing to the principal or person designated by the Chancellor, as appropriate, no later than two (2) school days after receiving the notice of Suspension, and may be made prior to receiving formal written notice of the Suspension. An appeal made orally shall be put in writing by the person receiving the request.
  - (d) All appeals will be heard by the principal (for Short-Term Suspensions) or a person designated by the Chancellor (for Medium-Term Suspensions) no later than one (1) school day after the appeal is requested. Upon request of the adult student or minor student's parent or guardian, the time for the appeal may be extended up to three (3) school days. The appeal may be

held by telephone upon request of the parent or guardian if necessary due to health, work, or childcare.

- (e) The student and his or her parent or guardian may present evidence and ask witnesses to speak.
- (f) At the conclusion of the conference, the principal or a person designated by the Chancellor, as appropriate, shall render a final decision.
- (g) No more than one (1) school day after the conference, the principal or a person designated by the Chancellor, as appropriate, shall give the student and his or her parent or guardian, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings, including the final decision.

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

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

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

## **B2506 PROCEDURES FOR DISCIPLINARY HEARINGS**

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

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

- B2506.3 The hearing shall be closed to the public unless the parent or guardian or adult student requests an open hearing.
- B2506.4 The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student.
- B2506.5 The student, parent or guardian, or representative shall have the right to question any witness or challenge any documentary evidence.
- B2506.6 The parent or guardian or adult student shall have the opportunity to present testimony and documentary evidence, including the opportunity to call any witness to present testimony relevant to the disciplinary action or other school system recommendation. The right to call witnesses shall include the right to require the presence of any involved school official.
- B2506.7 It shall be the burden of the DCPS to show by a preponderance of the evidence that the student did commit the infraction(s) upon which the disciplinary action is based.
- B2506.8 The hearing officer shall ensure that all due process procedures have been followed or waived.
- B2506.9 The hearing officer may question any witness or party and shall examine all documentary evidence.
- B2506.10 The hearing shall not be conducted according to the rules of evidence. However, the hearing officer may exclude any testimony or evidence that is irrelevant or repetitive.
- B2506.11 The hearing officer shall ensure that the hearing is conducted in a fair and orderly manner and shall have the authority to exclude any party or other person from the hearing on the grounds of substantial interference or obstruction of the orderly hearing process.
- B2506.12 The hearing officer shall make an official electronic audio recording of the hearing, which shall constitute the official record thereof. Upon request, a copy of the recording shall be made available to the parent or guardian, adult student, or representative and the local school principal. This provision shall not preclude a parent or guardian or representative from also recording or transcribing the hearing at his or her expense.
- B2506.13 The principal or school official shall indicate a recommendation of the school system for the duration of the off-site placement.

**B2507 HEARING OFFICER RECOMMENDATION**

- B2507.1 Within one (1) school day of the conclusion of a disciplinary hearing, the hearing officer shall issue a written recommendation which shall include the following:
- (a) A statement of the facts, as determined from the testimony and evidence presented at the hearing;
  - (b) A conclusion as to whether the required due process procedures have been properly followed or waived;
  - (c) A conclusion as to whether the student committed the infraction(s) upon which the disciplinary action is based; and
  - (d) A determination regarding the appropriateness of the proposed disciplinary action or an order for a modification thereof, including consideration of the factors enumerated in § B2500.8 and explicit justification for any recommended modification.
- B25072 For Long-Term Suspensions, a person designated by the Chancellor shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.
- B2507.3 For Expulsions, the head of the Office of Youth Engagement shall render a final decision no later than one (1) school day after receiving the hearing officer's recommendation.
- B2507.4 A copy of the written determination provided by a person designated by the Chancellor or by the head of the Office of Youth Engagement shall be given or mailed, within twenty-four (B24) hours, to the adult student, the minor student's parent or guardian, and their representatives, if any.
- B2507.5 Additional copies of the determination by a person designated by the Chancellor or the head of the Office of Youth Engagement shall be sent, within twenty-four (B24) hours, to the principal or other school official in charge of the school or program in which the student is enrolled, and retained in the files of the student hearing office.
- B2507.6 If the hearing officer recommends disciplinary action is not warranted, based on the fact that the student did not violate any DCPS rule or policy, the determination shall include an order to destroy all school records regarding the disciplinary action, including any reports that relate to the incident upon which the disciplinary action was proposed, insofar as those reports individually identify the student. If the hearing officer determines that disciplinary action is not warranted and either: (a) fails to state whether a DCPS rule or policy was violated, or, (b) states that a DCPS rule or policy was violated but nevertheless finds the disciplinary action to be unwarranted, the school may maintain documents

concerning the alleged infraction until the conclusion of the school year immediately following the incident.

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

- (a) A parent or guardian, or adult student who wishes to appeal a Long-Term Suspension to the head of the Office of Youth Engagement must submit a written or oral request to appeal the proposed Long-Term Suspension within five (5) school days of receiving notification of the Long-Term Suspension. If the request is made orally, it shall be recorded in writing by the person receiving the request.
- (b) Upon receipt of an appeal, the head of the Office of Youth Engagement shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.
- (c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.
- (d) No more than two (B2) school days after the conclusion of the conference, the head of the Office of Youth Engagement shall render a final decision. The head of the Office of Youth Engagement shall provide the parent or guardian, or adult student, and a person designated by the Chancellor, a written summary of the conference proceedings and decision.

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

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

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

- (a) A parent or guardian, or adult student who wishes to appeal an Expulsion directly to the Chancellor must submit a written or oral request to appeal the proposal within five (5) school days of receiving notification of the

Expulsion. If the request is made orally, it shall be recorded in writing by the person receiving the request.

- (b) Upon receipt of an appeal, the Chancellor or his/her designee shall schedule a conference with the parent or guardian, or adult student, to be held within three (3) school days of receiving the appeal request.
- (c) During the conference, the parent or guardian, or adult student, may present arguments in support of his or her appeal. The student shall have a right, but shall not be required, to have a representative or legal counsel, selected by the parent or guardian or adult student. The appeal may be held by telephone upon request of the parent or guardian. The conference may be recorded by any of the parties.
- (d) No more than two (B2) school days after the conclusion of the conference, the Chancellor shall render a final decision. The Chancellor shall provide the parent or guardian, or adult student, a person designated by the Chancellor, and the head of the Office of Youth Engagement a written summary of the conference proceedings and his or her final decision.

#### **B2508 REVIEW BY THE CHANCELLOR**

- B2508.1 The Chancellor may review, at his or her discretion, any proposed disciplinary action. If the Chancellor determines that disciplinary action is not warranted, the determination shall include a statement ordering the destruction of all school records of the disciplinary action, including any reports of the disciplinary action that relate to the incident upon which the action was based, provided that, from the facts presented, it is determined that there was no violation of any DCPS rule or policy, insofar as those reports individually identify the student.
- B2508.2 With respect to all disciplinary actions, the Chancellor may overrule or modify any proposed disciplinary action including Expulsion. The Chancellor shall provide written justification for any modification of disciplinary action.

#### **B2509 RE-ENTRY FOLLOWING EXPULSION**

- B2509.1 Prior to the conclusion of an Expulsion, a person designated by the Chancellor shall hold a conference with the student and the student's parent or guardian to determine appropriate school placement for the student.
- B2509.2 The conference shall be held according to guidelines in § B2505, and shall include discussion of the following topics:
  - (a) The student's activities while under disciplinary action;
  - (b) The steps the student will take to avoid a subsequent disciplinary action;

- (c) Support required by the student to avoid subsequent disciplinary action; and
- (d) Any other pertinent circumstances.

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

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

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

## **B2510 PROPOSED DISCIPLINE OF A STUDENT WITH DISABILITY**

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

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

B2510.3 The removal of a student with a disability from his or her current placement for more than ten (10) school days for disciplinary reasons shall require that a determination be made as to whether the subject behavior is related to the student's disability.

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

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

- (a) To an appropriate interim Alternative Educational Setting, another setting, or Suspension, for not more than ten (10) consecutive school days (to the extent such alternatives would be applied to children without disabilities); and
- (b) To an appropriate interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, up to but not exceeding forty-five (45) days if:
  - (1) The student carries a weapon to school or to a school function;
  - (2) The student knowingly possesses or uses illegal drugs or solicits the sale of a controlled substance while at school or at a school function; or
  - (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction DCPS.

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

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

- (a) Be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child's current IEP, that will enable the child to meet the goals set out in that IEP; and
- (b) Include services and modifications designed to address the behavior described in § B2511.B2 or § B2511.3 so that it does not recur.

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

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

- (b) Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision to take that action is made, a review must be conducted of the relationship between the child's disability and the behavior subject to the disciplinary action.

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

- (a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- (b) If the conduct in question was the direct result of DCPS's failure to implement the IEP.

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

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

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

- (a) First considers, in terms of the behavior subject to disciplinary action, all relevant information, including:
  - (1) Evaluation and diagnostic and results, or other relevant information supplied by the parents of the child;
  - (2) Observations of the child;
  - (3) The child's IEP and placement; and
  - (4) Any other material deemed relevant by the IEP Team, including, but not limited to, school progress reports, anecdotal notes and facts related to disciplinary action taken by administrative personnel; and
- (b) Then determines that:

- (1) In relationship to the behavior subject to disciplinary action, the child's IEP, and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the child's IEP and placement;
- (B2) The child's disability did not impair the ability of the child to understand the impact and consequences of the behavior subject to disciplinary action; and
- (3) The child's disability did not impair the ability of the child to control the behavior subject to disciplinary action.

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

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

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

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

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

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

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

- (c) Considers whether DCPS has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
- (d) Determines that the interim alternative educational setting meets the requirements described in § B2510.14 above.

- B2510.18 In recommending the removal of a student with a disability from his or her current placement removal of a student with a disability from his or her current placement to an alternative education setting for disciplinary reasons, the hearing officer must apply the standards set out in § B2510.17 above.
- B2510.19 When a parent requests a hearing regarding a disciplinary action to challenge the interim alternative educational setting or the manifestation determination, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in § B2510.5 (i.e., 45 days), whichever occurs first, unless the parent and DCPS agree otherwise.
- B2510.20 If a child is in an interim alternative educational setting for disciplinary reasons and school personnel propose to change the child's educational placement after expiration of the interim Alternative Setting for disciplinary reasons, during the pendency of any proceeding to challenge the proposed change in placement, the child must remain in the current placement (the child's placement prior to the interim alternative educational setting), except as provided in § B2510.21, below.
- B2510.21 If school personnel maintain that it is dangerous for the child to be in the current placement (placement prior to removal to the interim alternative education setting) during the pendency of the due process proceedings, DCPS may request an expedited hearing.
- B2510.22 A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated any rule or code of conduct of DCPS, including any behavior described in this chapter, may assert any of the applicable protections provided for in the Individuals with Disabilities Education Improvement Act, as amended, if DCPS had knowledge (as determined in accordance with § B2510.23 below), that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.
- B2510.23 DCPS is deemed to have knowledge that a child is a child with a disability if:
- (a) The parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to supervisory or administrative

personnel of [DCPS], or a teacher of the child, that the child is in need of special education and related services;

- (c) The parent of the child has requested an evaluation of the child; or
- (d) The teacher of the child or other personnel of DCPS has expressed specific concerns about a pattern of behavior or performance of the child to the Director of Special Education or to other DCPS personnel.

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

B2510.25 If DCPS does not have knowledge that a child is a child with a disability in accordance with § B2510.23 prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures applied to children without disabilities who engaged in comparable behaviors.

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

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

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

## **B2599 DEFINITIONS**

B2599.1 Unless the same term or phrase is defined in § B2599.2, the definitions set forth in § B2099 are incorporated in this chapter by reference and shall apply to the terms and phrases used in this chapter.

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

**“Alternative Educational Setting”** - an educational program other than that in which the student was placed prior to disciplinary action.

**“Academic Dishonesty”** - any conduct that unfairly influences academic outcomes including:

- (a) Plagiarism including the adoption or reproduction of ideas, words, or statements of another person or source without giving acknowledgment or credit to the person or source;
- (b) Cheating including any attempt to give or obtain assistance in with a test or examination, without permission or acknowledgment;
- (c) Deception including giving false information to instructional staff— for example, a student giving a false excuse for missing a deadline or making a false claim that assignment was submitted;
- (d) Fabrication including altering data, information, and documents affecting any student’s academic records; forging signatures of authorized instructional staff or falsifying information on an official school document, i.e. report card, letter of permission, petition, class schedule, ID card, or any other official school document;
- (e) Sabotage including creating situations to prevent others from completing their work. For example, destroying another student’s work, tampering with the experiments of other students; and
- (f) Unauthorized Access including gaining unauthorized access to computer systems, academic or administrative records and information; viewing or altering any records, modifying computer programs or systems, releasing or distributing information gained through unauthorized access.

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

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

**“Bullying”**-repeated intentional behavior that occurs in order to intentionally harm others through verbal or non verbal Harassment, physical Assault, or other more subtle methods of coercion. Such behavior may include, but is not limited to, manipulation, teasing, taunting, threatening, hitting, stealing, destroying 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 § B2504.6.

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