

# School Discipline: Know Your Rights

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# Right to Public Education



- By law students are entitled to a meaningful public education.
- By law students ages 5 -18 years are required to attend school.

## *This Means*

- Before a student can be excluded from receiving public education they must be afforded due process.

# What is Due Process?



- Students facing suspension or expulsion from public school are entitled to:
  1. Notice of the charges

*and*

  2. Opportunity to be heard
- Notice and opportunity for a hearing should occur before school removal

# How Is Due Process Provided To Students In D.C. Public Schools (DCPS)?

- Discipline Policies and Procedures for DCPS are a part of D.C.'s law, located in the D.C. Municipal Regulations.
- DC law states that no disciplinary action can take place against a student without following its disciplinary procedures.



WHAT ARE THE  
PROCEDURES/RIGHTS  
OF STUDENTS FACING  
SUSPENSION OR EXPULSION  
IN DCPS?

# 1. Notice of Disciplinary Action

- May be made by phone
- Must be followed by verifiable written notice sent no later than 24 hours after initial call
- Must include a description of conduct on which disciplinary action is based
- In parent's native language



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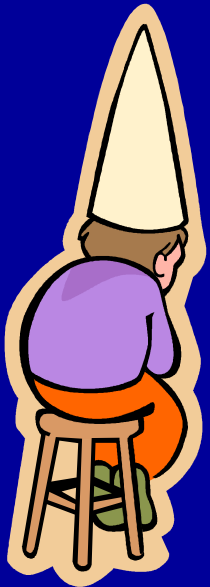
## 2. A Conference

- With school official responsible for making or approving the disciplinary action
- May include parent, witnesses and/or legal representative, but is not required
- Must include discussion of: (a) specific grounds for discipline; (b) evidence; (c) student's explanation; (d) disciplinary decision; (e) right of student/parent to examine student's records; (f) right to appeal or request hearing; and (g) official report of the incident
- Must occur before the disciplinary action unless there are emergency circumstances; if student is immediately removed, the conference must occur within 3 school days of removal



# What are the Grounds for Suspension and Expulsion?

- Tier 1: insubordination, minor disruptions
- Tier 2: disruption, damage to school property, minor harm to self/others
- Tier 3: significant disruption, harm to self/others
- Tier 4: significant disruption, destruction of property, significant harm to self/others
- Tier 5: illegal conduct, significant disruption, substantial harm to self/others



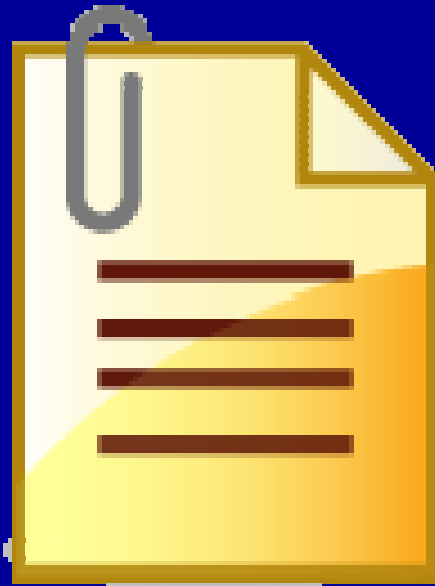
# What are the appropriate disciplinary responses?

- Classroom management (all tiers)
- In-school suspension (Tier 1-3)
- Short-term suspension (Tier 3-4)
  - 1-3 days for elementary students
  - 1-5 days for secondary students
- Medium-term suspension (Tier 3-4)
  - 6-10 days
- Long-term suspension (Tier 4-5)
  - 11-90 days
- Expulsion (Tier 5)
  - Full calendar year

## BUT, the school cannot...

- Use involuntary transfers (except for school uniforms)
- Suspend for violations of a school uniform policy
- Suspend for tardiness/absence
- Suspend more than twice in a semester without the Chancellor's approval

### 3. Findings Sent to Chancellor's Designee



- Findings and recommendations regarding disciplinary actions must be sent to the Chancellor's designee
- The Chancellor's designee may modify the disciplinary action

# Short- and Medium-Term Suspensions

- A short-term suspension (1-3 or 1-5 days) can be appealed to the principal
- A medium-term suspension (6-10 days) may be appealed to a person designated by the Chancellor





## 4. The Hearing

- If the school is proposing a suspension over 10 days or expulsion, within 1 day of receiving notice of the findings and recommendations of the conference, Chancellor's designee must forward the recommended disciplinary action to the hearing office to schedule a hearing
- Hearing must be held not more than 4 school days after notice of the findings and recommendations of the conference are provided to the parent/guardian/adult student (but can request additional 5 days)
- Hearing is closed unless student/parent requests open
- DCPS has burden of proof by preponderance of the evidence
- Strict rules of evidence do not apply
- Hearings are recorded and an official record exists

# What Happens after a Suspension or Expulsion Hearing?



- Within 1 day of the hearing, the hearing officer must issue a written recommendation that includes:
  1. A statement of facts
  2. Whether the required due process procedures were followed
  3. Whether the student committed the infraction
  4. Determination regarding appropriateness of the disciplinary action or order for modification
- Within 1 day of receiving the hearing officer's recommendation, a final decision must be made by the Chancellor's designee (suspension) or the Office of Youth Engagement (expulsion)
- Final decision must be mailed to the parent/guardian/adult student and legal representative, if any, within 24 hours
- Decision is binding unless overturned on appeal

# Appeals

- Must be made to the Office of Youth Engagement (long-term suspensions) or Chancellor (expulsions) within 5 school days of receiving final decision
- Appeal conference should be scheduled within 3 school days of receiving request for appeal
- Parent/guardian/adult student may present arguments in support of appeal
- Either party may record appeal conference
- Office of Youth Engagement (long-term suspensions) or Chancellor (expulsions) must issue final decision within 2 school days

# What does the student do while all of this is happening?

- For suspensions of less than 11 days, student must be allowed to make up any class and homework assignments and exams without penalty
- For long-term suspensions and expulsion, DC regulations are clear that unless an emergency situation exists, students should remain in school until a final decision is made
  - Final decision is rendered by the Chancellor's Designee or Office of Youth Engagement, NOT the school or hearing officer
- If an emergency exists, students should still be provided work packets that can be turned in and graded to allow them to continue to work toward earning credits



# Can Students with Disabilities be Disciplined?

## Yes

- Students with disabilities are not exempt from disciplinary action but receive additional procedural safeguards
- School can suspend students with disabilities for not more than 10 school days
- If school wants to exclude students for more than 10 school days or if student has been subjected to a series of removals that total more than 10 school days in a school year and constitute a pattern, then additional protections apply under the Individuals with Disabilities Education Act (IDEA).

\*Removals of more than 10 school days are considered a change in placement



## What are the Additional Procedural Protections?

If the school decides to change a student's placement, the school must:

- Notify parents of the decision and of all procedural safeguards

*And*

- Convene the Individualized Educational Program (IEP) team within 10 school days to determine whether the student's behavior is related to the student's disability.

This IEP meeting is called the Manifestation Determination Review (MDR).

# What Happens During a MDR?

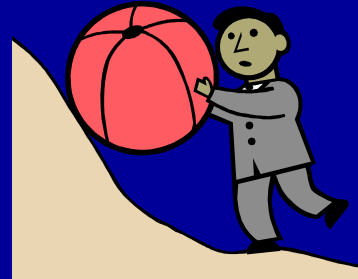
- The IEP team must review all relevant information in the student's file, including:

- ✓ Evaluation and diagnostic results
- ✓ Information supplied by parents
- ✓ Observations
- ✓ IEP and placement



- If behavior is determined to be a manifestation of the student's disability, the IEP team must return student to school, unless parent and school agree to change student's school placement
- If behavior is determined not to be a manifestation of the student's disability, then general education disciplinary standards apply
- However, school is still required to provide educational services to enable student to continue to participate in the general education curriculum and to progress toward meeting goals of IEP, although in an interim alternative educational setting

# What Happens if the Parent Disagrees with the Manifestation Determination?



- Parent can request a hearing
- DCPS must arrange for an expedited due process hearing, which must occur within 20 school days of date when complaint requesting hearing is filed
- Pending hearing and decision, student remains in interim alternative educational setting

# Do the Same Additional Protections Apply Even When there is a Claim of Serious Violation?

## Not Exactly

- School can change a student's placement with a disability for up to 45 school days if:
  - Student carries or possesses a weapon on school grounds
  - Student knowingly possesses, uses or sells drugs at school
  - Student has inflicted serious bodily injury while at school
- Such removal can take place whether or not the subject behavior is determined to be a manifestation of the student's disability
- School must place student in an appropriate interim alternative educational setting (IAES)

# What are the Rights of Students Not Yet Identified?

- Students can still assert rights under IDEIA provisions regarding discipline of students with disabilities if school had knowledge that student has a disability before the subject behavior resulting in disciplinary action
- School is deemed to have knowledge if:
  - Parent expressed concern in writing (exceptions may apply) to school personnel of student's need for special education services
  - Parent has requested evaluation of student
  - Teacher or other school personnel expressed concern to school personnel
- Without knowledge student is subjected to general education discipline procedures
- If parent requests evaluation during discipline proceedings, school must conduct evaluations in an expedited manner



# What about discipline records?

- All disciplinary records must be maintained by the school until the student is promoted to the next educational level (for example, from elementary school to secondary school)
- All disciplinary records must be kept separately from the student's official file





## Charter Schools In Brief

### What Discipline Procedures Apply to Charter Schools?

- Each charter school has its own discipline procedures, including appeal rights, which vary from school to school
- DCPS disciplinary procedures do not apply unless otherwise stated in the school's charter
- General due process procedures (notice, hearing) and additional procedures under IDEIA for students with disabilities still apply

# THINGS TO REMEMBER!

- You are entitled to timely notice of student infractions, disciplinary action and to be informed of your rights to review such action
- For DCPS, obtain a copy of the disciplinary procedures
- For charter schools, obtain a copy of the student and/or parent handbook
- Document each class/school removal
- Keep a copy of everything
- Disciplinary issues are time sensitive and require your immediate attention
- CALL AJE IF YOU NEED ASSISTANCE – (202) 678-8060 (SE Office)  
(202) 265-1432 (NW Office)



# QUESTIONS

