



# Advocates for Justice and Education, Inc.

*The federally designated Parent Training and Information Center for Washington DC*

## **Know Your Rights: D.C.P.S. Student Discipline Hearings (Long-Term Suspensions and Expulsions)**

### **Right to Public Education in D.C.**

- Students are entitled to a meaningful public education and students 5-18 years of age are required to attend school.
- Before students can be suspended or expelled from school they are entitled to due process - notice of the charges and an opportunity to be heard.

### **Due Process for Students in D.C. Public Schools (DCPS)**

- Under D.C. law no disciplinary action can take place against a student without DCPS following its disciplinary procedures.
- DCPS students subjected to any suspensions or expulsions are entitled to verifiable written notice of the disciplinary action. DCPS students facing a long-term suspension (6 days or more) or expulsion (one (1) calendar year) are automatically entitled to a hearing. Hearings are held at the D.C. Office of Administrative Hearings (OAH) before an administrative law judge.

### **DCPS Disciplinary Procedures**

#### **Grounds for Long-Term Suspension and Expulsion**

- DCPS categorizes student behavior under one of five tiers, ranging from minor behavior under Tier 1 (e.g., insubordination, minor disruptions) to the most severe behavior under Tier 5 (e.g. illegal conduct, major disruption, substantial harm to self or others).
- DCPS can only impose a long-term suspension for Tier 4 or 5 violations, and can only impose an expulsion for Tier 5 violations.

#### **Limits on Length of Suspensions**

- Generally, a student cannot be suspended for more than twenty cumulative school days during an academic year. The exception requires a written justification from the Chancellor explaining why the discipline was more appropriate than alternative responses or why the situation necessitated emergency removal.

#### **Before the Hearing**

##### ***You have a right to:***

- A conference between the student and school administrator to discuss grounds for the disciplinary action, to review the evidence and to permit the student to tell his/her side of the story before any disciplinary action is taken.
- Verifiable written notice (by, email, certified mail, hand-delivered with signature receipt, etc.) that includes a citation of the alleged rule violated, a summary of the facts and proposed disciplinary response, within one (1) school day of the school's decision to take disciplinary action.
- Remain in school prior to the hearing unless an immediate emergency exists (such as when the behavior of the 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).

- For students with a disability or suspected disability, a manifestation determination review meeting within ten (10) school days of the decision to impose a long-term suspension or expulsion.
- A hearing within four (4) school days of receiving written notice.
- Postpone the hearing for up to five (5) school days if necessary to prepare for the hearing or to provide for the attendance of necessary parties or witnesses.
- Request and review copies of all of the records and evidence relating to the disciplinary incident prior to the hearing.

### **At the Hearing**

DCPS bears the burden of proof at hearing. This means DCPS must prove that all procedures were followed, that the student violated the student code of conduct, and that the proposed disciplinary response is appropriate.

#### ***You have a right to:***

- Ask that the case be dismissed if DCPS fails to appear for the hearing.
- Ask questions of any witnesses called by the school.
- Examine all evidence presented by the school, including any reports, written statements, records, security camera footage, etc., and to object to any evidence presented that is irrelevant, unreliable or that was not made available to you prior to the hearing.
- Testify on your own behalf or choose not to testify. (Note: If you are a student, and you have a related, open juvenile matter, you should not testify without first consulting with your juvenile attorney).
- Call witnesses to testify on your behalf and ask them questions.
- Present evidence, including reports, records, written statements, and any other items that you believe may help the Administrative Law Judge decide your case. This includes hearsay evidence.
- Be represented by an attorney or be assisted by a non-attorney.

### **After the Hearing**

#### ***You have a right to:***

- A final decision from DCPS within two (2) school days. If you do not receive a final decision within (2) school days, contact the instructional superintendent for your child's school.
- Appeal the final decision by making a verbal or written request to the head of the Office of Equity within five (5) school days of receiving the final decision.

### **If You Miss Your Hearing**

#### ***You may:***

- If you failed to appear, ask OAH in writing for a new hearing date. Your request must be filed within one (1) school day after the hearing date you missed.
- If you failed to receive notice of the hearing, file a request for reconsideration with DCPS requesting that DCPS refer the case back to OAH for a new hearing.

**Need Additional Help?** Call or visit Advocates for Justice and Education (AJE): (202) 678-8060 • 25 E Street, NW, 3<sup>rd</sup> Floor • Washington, D.C. 20001. **You can also receive on-site legal advice and counsel from an AJE attorney on the day of your hearing at the Office of Administrative Hearings. HOWEVER, IT IS BEST TO CONTACT AJE AS SOON AS YOU KNOW YOU HAVE A HEARING.**