



#### **14. Discipline**

- a. Statutes and Regulations Addressing Discipline
- b. DCPS Student Discipline Policy Tiers
- c. DCPS Suspension Notice
- d. DCPS Manifestation Forms for Special Education
- e. DCPS Manifestation Forms for 504 Plans
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- g. CLC Tip Sheet: School Discipline and Bullying
- h. CLC Summary Sheet: Student Fair Access to School Amendment Act of 2018
- i. Student Fair Access to School Amendment Act of 2018

## **STATUTES AND REGULATIONS ADDRESSING DISCIPLINE**

- ❖ IDEA Discipline Regulations : 34 CFR § 300.530-537  
Available at: <http://www.ecfr.gov/cgi-bin/ECFR?page=browse>
  
- ❖ Title 5 of the DCMR - 5 DCMR § B-2400 *et. seq.*  
5 DCMR § B-2500 *et. seq.*  
Available at: <http://www.dcregs.dc.gov/Default.aspx>.
  
- ❖ DC Office of Administrative Hearings Emergency Regulations  
Title 1 of the DCMR – 1 DCMR § 2900 *et. seq.*  
Available at: <http://www.dcregs.dc.gov/Default.aspx>.

## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

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### Tier 2

Tier 2 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 2 behaviors result in school-based and administrative disciplinary responses.

Behavior	Disciplinary Response(s)
2.1 Directing profanity or obscene/offensive gestures toward staff	<ul style="list-style-type: none"> <li>• Verbal redirection/reprimand</li> <li>• Teacher/student conference or Administrator/student conference</li> <li>• Parental contact in writing or by phone</li> <li>• Administrator/parent conference</li> <li>• Temporary Removal of Student from Classroom*</li> <li>• In-School Disciplinary Action*</li> <li>• Behavior contract</li> <li>• Other school-based consequences as approved by a person designated by the Chancellor</li> </ul>
2.2 Inappropriate or disruptive physical contact between students	
2.3 Intentional misuse of school equipment/supplies/facilities	
2.4 Leaving classroom without permission	
2.5 Throwing objects that may cause injury or damage property	
2.6 Unauthorized presence in hallway during class time	
2.7 Unauthorized use of portable electronic devices during school hours (e.g. mp3 players, cell phones)	
2.8 Unexcused absence from class	
2.9 Unexcused absence from school <sup>2</sup>	
2.10 Using computer/office equipment without permission	
2.11 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	
2.12 Documented pattern of persistent Tier 1 behavior	

<sup>2</sup> DCMR Chapter 21 (Attendance and Transfers) provides guidance about student attendance

\*Definition included at the end of this document. Complete policy document (DCMR Chapter 25) is available on the DCPS website.



## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

### Tier 3

Tier 3 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 3 behaviors may result in either on-site or off-site Suspension.

Behavior	Disciplinary Response(s)
3.1 Academic dishonesty	<input type="checkbox"/> Verbal redirection/reprimand <input type="checkbox"/> Teacher/student conference or Administrator/student conference <input type="checkbox"/> Parental contact (written or by phone) <input type="checkbox"/> Parent conference <input type="checkbox"/> Temporary Removal of Student from Classroom* <input type="checkbox"/> Behavior contract <input type="checkbox"/> In-School Disciplinary Action* <input type="checkbox"/> Grade reduction for academic dishonesty <input type="checkbox"/> On-site Short-Term Suspension* with provision of appropriate intervention services <input type="checkbox"/> Off-site Short-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence
3.2 Bullying, or using humiliating, or intimidating language or behavior including Internet bullying	
3.3 Causing disruption on school properties or at any DCPS-sponsored or supervised activity	
3.4 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	
3.5 Engaging in behavior that demonstrates gang/neighborhood crew affiliation (displaying clothing or gestures associated with gangs)	
3.6 Engaging in reckless behavior that may cause harm to self or others	
3.7 Engaging in sexual acts on school premises or at school-related functions	
3.8 Extortion	
3.9 Fighting where there is no injury and no weapon	
3.10 Forgery	
3.11 Gambling	
3.12 Hazing	
3.13 Inappropriate use of DCPS computer or network (restricted websites, offensive emails)	

\*Definition included at the end of this document. Complete policy document (DCMR Chapter 25) is available on the DCPS website.





## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

### Tier 3 (continued)

Behavior	Disciplinary Response(s)
3.14 Leaving school without permission	<input type="checkbox"/> Verbal redirection/reprimand <input type="checkbox"/> Teacher/student conference or Administrator/student conference <input type="checkbox"/> Parental contact (written or by phone) <input type="checkbox"/> Parent conference <input type="checkbox"/> Temporary Removal of Student from Classroom* <input type="checkbox"/> Behavior contract <input type="checkbox"/> In-School Disciplinary Action* <input type="checkbox"/> Grade reduction for academic dishonesty <input type="checkbox"/> On-site Short-Term Suspension* with provision of appropriate intervention services <input type="checkbox"/> Off-site Short-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence
3.15 Lying to or giving misleading information to school staff	
3.16 Obscene, seriously offensive, or abusive language or gestures	
3.17 Possession of tools or instruments which school administrators deem could be used as weapons	
3.18 Possession or distribution of obscene or pornographic material on school premises	
3.19 Possession or use of tobacco	
3.20 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)	
3.21 Sale or distribution of any item without authorization	
3.22 Trespassing	
3.23 Unauthorized possession, use, or distribution of over-the-counter medication	
3.24 Use of alcohol	
3.25 Use of marijuana, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, or drug paraphernalia	
3.26 Verbal, written, or physical threat to person or property (including intimidating postures)	
3.27 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	
3.28 Documented pattern of persistent Tier 2 behavior	

\*Definition included at the end of this document. Complete policy document (DCMR Chapter 25) is available on the DCPS website.



## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

### Tier 4

Tier 4 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 4 behaviors result in off-site Suspension.

Behavior	Disciplinary Response(s)
4.1 Activating false alarm	<input type="checkbox"/> Off-site Short-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Off-site Medium-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Off-site Long-Term Suspension*, except in response to unexcused tardiness or absence
4.2 Acts of vandalism, destruction of property, or graffiti (tagging)	
4.3 Contaminating food	
4.4 Documented theft of school or personal property without force	
4.5 Fighting which creates substantial risk of or results in minor injury	
4.6 Inciting others to violence or disruption	
4.7 Interfering with school authorities or participating a major disruption of the school's operation	
4.8 Lewd or indecent public behavior or sexual misconduct	
4.9 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	
4.10 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	
4.11 Retaliation for reporting harassment and sexual harassment	
4.12 Sexual harassment	
4.13 Tampering with, changing, or altering an official record or document of a school	
4.14 Using an article that is not normally considered a weapon to intimidate or threaten another individual	
4.15 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	
4.16 Documented pattern of persistent Tier 3 behavior	

\*Definition included at the end of this document. Complete policy document (DCMR Chapter 25) is available on the DCPS website



## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

### Tier 5

Tier 5 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.

Behavior	Disciplinary Response(s)
5.1 Acts of Exceptional Misconduct at other schools	<input type="checkbox"/> Off-site Long-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Expulsion*
5.2 Any behavior that violates the Gun Free School Act	
5.3 Arson	
5.4 Assault with a weapon	
5.5 Assault/physical attack on student or staff	
5.6 Biohazard	
5.7 Bomb threat	
5.8 Causing serious disruption or damage to school's computer systems, electronic files, or network	
5.9 Commission or attempted commission of any act of sexual assault or sexual aggression	
5.10 Fighting which results in a serious physical injury	
5.11 Participating in group fight which has been planned, causes major disruption to school day or results in substantial bodily injury	
5.12 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)	
5.13 Possession of fireworks or explosives	
5.14 Possession or distribution of alcohol	
5.15 Selling or distribution of marijuana, prescription drugs, controlled dangerous substances, imitation controlled substances, inhalants, other intoxicants, controlled or drug paraphernalia	

\*Definition included at the end of this document. Complete policy document (DCMR Chapter 25) is available on the DCPS website



## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

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### Tier 5 (continued)

Behavior	Disciplinary Response(s)
5.16 Theft or attempted theft using force, coercion, intimidation or Threat of violence	<input type="checkbox"/> Off-site Long-Term Suspension*, except in response to unexcused tardiness or absence <input type="checkbox"/> Expulsion*
5.17 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.	
5.18 Use, threatened use, or transfer of any weapon*	
5.19 Using an article that is not normally considered a weapon to injure another individual	
5.20 Vandalism/destruction of property over \$500	
5.21 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	
5.22 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	
5.23 Documented pattern of persistent Tier 4 behavior	



## Disciplinary Responses to Student Behavior (DCPS Student Discipline Policy, DCMR Chapter 25)

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### Definitions of Disciplinary Responses

**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.

**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.

**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).

**Medium-Term Suspension**—suspension for six (6) to ten (10) school days.

**Long-Term Suspension**—suspension for eleven (11) to ninety (90) school days.

**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.

**Weapons**— Include, but not limited to: weapons enumerated in DC Official Code 22-4514 (2001); firearms, knives, martial arts devices, air gun, bb gun, paintball gun, mace, pepper spray, tear gas, explosives, slingshot, bullets, chemical weapon, razorblade, razor, other weapons or instruments designed to be or commonly used as weapons (chains, clubs, knuckles, night sticks, pipes, studded bracelets) and others as listed in Chapter 25 (found on DCPS website).

**Notice of non-discrimination.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of 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, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The following office has been designated to handle inquiries regarding non-discrimination policies: Equal Employment Opportunity Office, District of Columbia Public Schools, 825 North Capitol Street, NE, Washington, DC 20002.

REQUIRED FOR SHORT TERM  
Notice of Final Disciplinary Action

<b>Student Information</b> Name: [REDACTED] Student ID: [REDACTED] Date of Birth: [REDACTED] Grade: 2	<b>Parent/Guardian Information</b> Name: [REDACTED] Address: [REDACTED] Washington DC 20003 Home phone: 202- [REDACTED] Work Phone: [REDACTED] Cell phone: 202- [REDACTED] Other Contact #: [REDACTED] Email: [REDACTED]
School Name: [REDACTED] Authorizing School Official: Title: Primary Contact Number:	Date of Incident: 11/14/2011 Time of Incident: 2:20PM Exact Location: Classroom

11/14/2011

Dear [REDACTED]

I met with [REDACTED] to discuss an incident on 11/14/2011 involving Fighting where there is no injury and no weapon, 3.25 (DCMR- §B2502.1).

As a result of the conference, I have determined that she is responsible for this conduct. The consequence for this behavior will be Off-site Short-Term Suspension (Elementary) for 3 days, beginning on 11/15/2011 and ending on 11/17/2011 (DCMR- §B2505.1).

If you need further clarification regarding this issue, please contact my office at as soon as possible. Thank you for your attention to this matter.

Sincerely,

*Dwayne Hane**Please return on  
Friday 11/18/2011*



You have the right to examine your student's records and any official report of the incident prior to the imposition of this disciplinary action.

#### Appeals

Appeals can be made orally or in writing. Appeals made orally shall be put in writing by the DCPS employee receiving the request. Appeals may be made by telephone if necessary due to health, work or childcare. The student or parent may present evidence and ask witnesses to speak.

→ Short-Term (In-school and Off-site) Suspensions may be appealed to the school's Principal.

→ Medium-Term Suspensions may be appealed to the school's Instructional Superintendent.

Appeals must be made no later than two (2) school days after receiving notification of the disciplinary action and may be made prior to receiving this notice. The Principal or Instructional Superintendent will make a final decision within one (1) school day of the conference.

→ Long-Term Suspensions may be appealed to the head of the Office of Youth Engagement.

→ Expulsions may be appealed to the Chancellor.

Appeals must be made no later than five (5) school days after receiving notification of the disciplinary action. A conference will be scheduled within three (3) school days of receiving the appeal request. The head of the Office of Youth Engagement or the Chancellor will make a final decision within two (2) school days of the conference.

#### Hearings

→ In the case of Long-Term Suspensions and Expulsions, you will be contacted by the Office of Youth Engagement to schedule a hearing.

Hearings will be held within four (4) days of your receiving this notice. After being contacted by the Office of Youth Engagement, you will receive a written notice indicating the date, time and location of the hearing. If necessary, you may postpone a hearing up to five days in order to prepare or accommodate the schedules of necessary parties. Hearings are closed to the public, but you may request an open hearing. The student is entitled to have a representative or legal counsel, though it is not required. The student (or parent or representative) may question any witness or documentary evidence. You may present any testimony or documentary evidence and call witnesses relevant to the case, including any school officials involved. A hearing officer will conduct the hearing in a fair and orderly manner and submit his or her recommendation to the Instructional Superintendent (for Long-Term Suspensions) or the head of the Office of Youth Engagement (for Expulsions) within one (1) day.

For additional information on hearings, please contact the Office of Youth Engagement at (202) 442-5072. Full listing of procedures regarding disciplinary actions are outlined in Chapter 25 in DC Municipal Regulations, available on the DCPS website.

Mail this record - in its entirety - to the parent by email, certified mail or hand-delivered mail with a signature no later than 1 school day after the incident.

**Notice of non-discrimination.** In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §§ 2-1401.01 et seq. (Act), the District of Columbia does not discriminate on the basis of 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, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The following office has been designated to handle inquiries regarding non-discrimination policies: Equal Employment Opportunity Office, District of Columbia Public Schools, 1200 First Street, NE, Washington, DC 20002.



# Manifestation Determination



## MANIFESTATION DETERMINATION

### SETTING THE STAGE

In carrying out a manifestation determination review, the \*MDT must consider, in terms of the behavior in subject to disciplinary action, all relevant information, including:

- Evaluation and diagnostic results or other relevant information supplied by the parent;
- Observation/anecdotal records of the student;
- IEP and placement of the student;
- Functional Behavior Assessment and/or Behavior Intervention Plan
- The current IEP and placement were appropriate and the special education services, supplemental aides and services, and behavior intervention were provided consistent with the IEP & placement

### NEXT STEPS

If the manifestation determination of the MDT is "NO" to either statement below, then the behavior must be considered a manifestation of the student's disability.

- 1) The student understood the impact and consequences of the behavior subject to disciplinary action;  
☒ YES ☐ NO
- 2) The student had the ability to control the behavior subject to disciplinary action.  
☒ YES ☐ NO

The determination of the MDT is that the behavior is:

- ☒ a manifestation of the disability  
☐ not a manifestation of the disability. (Transfer records to general education for Chapter 25 procedures)

All District of Columbia Public Schools' students are given due process rights relative to student discipline in Chapter 25 of the District Columbia Municipal Regulation, Title Five (DCMR). The DCMR Title Five document is located in all public libraries and in the main office of District of Columbia Public Schools.



# Section 504 Manifestation Determination Checklist

Student: \_\_\_\_\_

Date of Meeting: \_\_\_\_\_

1. The 504 Team meeting for Discipline Procedures must be held within 10 school days of any decision to change the placement of a child with a 504 disability because of a violation of a student code of conduct. A "change of placement" generally means:
  - A. A disciplinary removal from school for more than 10 consecutive school days; or
  - B. A series of removals totaling more than 10 school days in a school year that constitutes a pattern because the behavior is substantially similar to the previous incidents that resulted in removals, and because of additional factors such as length of each removal, the total removal time, and proximity of removals.
2. The manifestation determination must be made by relevant members of the student's 504 Team, including the parent/guardian, and not only by school staff. At the Team meeting, the Team must review all relevant information in the student's file, including the child's 504 Plan, any teacher observations and any relevant information provided by the parents.
3. The 504 Team will answer the following questions:
  - A. Was the conduct in question caused by, or did it have a direct and substantial relationship to, the child's disability?  
☐ Yes ☐ No
  - B. Was the conduct in question the direct result of the district's failure to implement the 504 Plan?  
☐ Yes ☐ No

**If the answer to either of these two questions is yes, then the behavior in question should be considered a manifestation of the student's disability.**

4. If the 504 Team determines that the misconduct is a manifestation of the student's disability, then the Team should determine how to address the student misbehavior, and should consider a possible functional behavior assessment and possible development of a behavior intervention plan for the student. In addition, the Team must decide on the student future placement, and ensure that the student continues to receive a free appropriate public education.
5. If the Team determines that the misconduct is not related to the student's disability, then the district may use the regular disciplinary procedures applicable to students without disabilities and in the same manner. The district need not provide educational services to the student if he or she is suspended or expelled for misbehavior that is not a manifestation of the child's disability.
6. **Special Rule for Drug and Alcohol Violations**  
If a Section 504 student is found 1) to be currently engaging in the illegal use of drugs or alcohol, and 2) to have violated school policies, rules or a code of conduct about the use or possession of drugs or alcohol, then the district may take disciplinary action against that student to the same extent and degree as the district would undertake for students who are not disabled. The district is not required to have a prior 504 Team meeting, need not determine if the use or possession is related to the student's disability, and need not provide any alternative services during any removal that may be ordered for the use or possession violation, as long as such a consequence is consistent with the policy for non-disabled students. [29 U.S.C § 705(20)(C)(iv)]

February 2, 2012

Dr. Amanda Alexander  
Instructional Superintendent  
DCPS  
1200 First St NE  
Washington, DC 2000

VIA email: [Amanda.alexander@dc.gov](mailto:Amanda.alexander@dc.gov)

Re: Appeal of 10-day suspension of Jane Smith and third request for transfer

Dear Dr. Alexander:

I am writing to appeal the 10-day suspension proposed on Tuesday for Jane Smith, my daughter. Jane is a fifth grade student at [REDACTED]. On page two of the suspension notice it says the instructional superintendent has the authority to modify or rescind a proposed medium-term suspension, pursuant to 5 DCMR B § 2505.6(c). In addition, I am writing to request a safety transfer for Jane to a school that is accessible for me, because Tuesday, the parent of another child threatened assault and battery of Jane in my presence at the school.

As you know, no disciplinary action can be effectuated unless it is in accordance with the policies and procedures set forth in the DC Municipal Regulations. With respect to Jane's suspension, multiple mandatory procedures were not followed.

The regulations encourage a progressive approach to discipline, wherein responses should begin with the least severe appropriate response and be aimed at intervention and remediation to enable students to continue in their educational program. *See* 5 DCMR B § 2500.11. Options such as anger management, community service, conflict resolution, counseling, in-school suspension, and peer court are supposed to be implemented, beginning with the least severe appropriate response. A 10-day suspension is an inappropriately severe response to this incident, for a student with minimal disciplinary history like Jane.

Jane should not be suspended for ten days, because it is an unfair, inconsistent, and inappropriate discipline. *See* 5 DCMR B § 2500.8-2500.10. Allegedly, a fight occurred during recess between Jane and another student at [REDACTED] last Thursday. The other child in the alleged fight continually threatened to fight Jane throughout the morning of the alleged altercation. Jane has been singled-out for this medium-term suspension, while none of the other children allegedly urging on a fight nor the instigator have been suspended. On Tuesday, when [REDACTED] staff apparently first learned of the incident when the police arrived to investigate, I was called to the office, and when I arrived there were a bunch of parents and

children there. Allegedly, there is a video, but I never got to see the tape. Mr. Ham offered us the option to have their children clean the school after hours for two weeks instead of suspension and other children received that punishment. Mr. Ham never told me how long the suspension would be when offering the option. Since DCPS saw the alleged altercation as an infraction only warranting community service, a 10 day suspension is incongruent to the severity of offense and does not conform to DCPS's policy encouraging that disciplinary consequences enable students to continue in their instructional program.

Furthermore, the notice provided to me and the conference prior to Mr. Ham making the suspension are invalid because they did not conform to multiple mandatory regulations that ensure that the student receives due process. The Notice cites to 5 DCMR B § 2501.1 as the grounds for the suspension, however, medium-term suspensions are not permitted under that section of the discipline code. Section 2501.1 contains Tier 1 offenses. The Notice of suspension does not contain any summary of the facts as required under 5 DCMR B § 2505.6(d), impeding my and Jane's rights to know and understand the facts underlying the infraction that DCPS has charged. Also, I was never informed of my right to examine any official report of the incident prior to the imposition of discipline, as required during any conference under 5 DCMR B § 2505.4. The proposal of 10-day suspension did not come from the principal, [REDACTED], as required at 5 DCMR B § 2505.1(c). Last, but not least, DCPS is aware that I have a visual impairment, but the Notice and disciplinary documents were not given to me in large print to make them accessible as required by 5 DCMR B § 2500.18 and the Americans with Disabilities Act.

*Jane's suspension is illegal and invalid, because multiple procedures in the discipline code were not followed, thus violating my rights and Jane's basic rights to due process. Jane should be permitted to return to school immediately and the suspension rescinded.*

However, I am now extremely concerned about Jane's safety returning to [REDACTED]. On Tuesday, while at the school with the group of parents and students, Mr. Ham, Ms. Miller, and police officer, the grandmother of the other girl involved in the alleged fight threatened to "whip" Jane's "a\$\$. The grandmother threatened to whip Jane's a\$\$ and urged her granddaughter to whip Jane's a\$\$ last week as Jane walked home. As you know because I already requested a transfer for my children to a fully wheelchair accessible school building as a reasonable accommodation, I am a parent with disabilities and must use a wheelchair. I am extremely concerned that Jane will be physically harmed by this other parent on the walk to or from school, and that [REDACTED] did nothing about the threat on Tuesday. Jane needs to be transferred immediately.

I look forward to meeting with you tomorrow and/or receiving your decision reducing or rescinding Jane's proposed suspension and to receiving the transfer necessary to keep Jane safe as well as to comply with DCPS's obligation to accommodate and provide program

accessibility for me as a parent with a disability. Please call me as soon as possible at [REDACTED]  
[REDACTED]

Sincerely,

Joan Smith

# Overview

## School Discipline and Bullying

From CLC's Education Practice Kit:

<https://www.childrenslawcenter.org/resource/practice-kit-06-education-toolkit-0>

In this Section of the Education Toolkit, you will find information and resources about the rights of students to be appropriately disciplined (and not inappropriately removed from school), and the requirements for schools to address bullying when it is reported by students or parents.

### School Discipline

All students have due process rights that can be invoked when they are being subject to inappropriate school discipline, and special education students have additional protections under the law from being suspended for behavior that may be related to their disability. There are different regulations depending on where a student is enrolled. For DCPS students, schools follow the DCMR, for students enrolled in charter schools, the specific charter school's disciplinary policy (often in the parent handbook\*) applies, and for students enrolled in PG County Public Schools, the PG County administrative procedures apply. Additional legal resources for special education students are included in the tip sheets in this section, as well as in the Special Education Section.

### Bullying

Given the increased awareness of bullying in schools and the long-term negative impact of bullying, schools are more and more frequently adopting (or being required to adopt) policies as to how a school will address bullying if it is reported by a student, parent or school staff. In DC, all schools are legally required to have a policy in effect regarding how the school will address bullying. Charters are supposed to have developed individual policies, and DCPS follows the DCPS District-Wide Bullying Prevention Policy. In PG County Public Schools, the PG administrative procedures apply.

This section provides information and resources regarding how to ensure that your client's rights are protected if they are being subject to discipline, or if they are being bullied in school. This section includes information regarding the discipline regulations of different jurisdictions, the bullying policies of different jurisdictions, and guidance on how to best advocate for your client's rights through multiple tip sheets.

For relevant legal resources on these topics, go to:

### **Federal Regulations**

- 34 C.F.R. § 300.530 (discipline of a student with or suspected of having a disability)

### **Local/State Law & Regulations**

- DC
  - 5 D.C.M.R. § B-2500 *et. seq.* (Discipline Regulations (including tiers))
  - 5 D.C.M.R. § B-2510 *et. seq.* (Discipline of a Student with a Disability)
  - 1 D.C.M.R. § 2901 *et. seq.* (Regulations Regarding Student Discipline Hearings at OAH)
  - D.C. Code § 2-1535.01 (Youth Bullying Prevention Act of 2012)
- MD
  - C.O.M.A.R. 13A.08.01.11 (Discipline of a Student with (or suspected of) a disability)

\* The Public Charter School Board (“PSCB”) maintains a directory of charter school parent handbooks, which contain the school’s disciplinary policies, at: <https://www.dcpsb.org/policy/attendance-discipline-truancy/discipline-plans-policy>

# CLC Tip Sheet

## Special Education & Discipline

### Special Education & Discipline: Tips and Protections

Students who receive special education services under the IDEIA have additional special protections. This tip sheet details some important disciplinary provisions in federal law and regulations for special education students that you can use to advocate for your client.

- ◆ *Continued Services:* If a special education student has been removed from his or her current school placement for 10 days in a school year, the school system must continue to provide services that allow the child to participate in the general education curriculum and make progress toward IEP goals. 34 C.F.R. § 300.530.
  - These services may be provided in an interim alternative educational setting, as decided by the IEP team. 34 C.F.R. § 300.531.
- ◆ *Change of Placement:* A removal of 10 or more consecutive days in a school year is a change of placement. A pattern of removals totaling more than 10 days in a school year that involves similar behaviors may also be a change of placement. 34 C.F.R. § 300.536.
- ◆ *Manifestation Determination:* There cannot be a change of placement without the school system holding a special meeting, called a manifestation determination. 34 C.F.R. § 300.530 (e-f). The purpose of this meeting is to determine if the behavior resulting in the discipline is a manifestation of the child's disability.
  - If the school district has failed to implement the IEP or if it is determined that the child's behavior was a manifestation of the child's disability, the IEP team must conduct a functional behavior assessment (FBA) or revise an existing behavior intervention plan, and the child must be allowed to return to the original placement and not be suspended or removed unless the parent and school agree otherwise.
- ◆ *Exception for Dangerous Behaviors:* Regardless of the manifestation determination, a school system may remove a child to an interim alternative setting for certain behaviors, such as bringing a weapon to school or inflicting serious bodily injury on a person at school, for up to 45 days. 34 C.F.R. § 300.530 (g).
- ◆ *Right to Appeal:* Parents or the LEA can appeal disciplinary decisions relating to special education students. Decisions about manifestation determinations and placement can be appealed to a hearing officer. 34 C.F.R. § 300.532.
  - Disciplinary due process hearings are expedited and follow state timelines.
- ◆ *Students Who Have Not Yet Been Found Eligible For Special Education:* Children who do not receive special education services may still be eligible for the special education disciplinary protections if the school system had knowledge that the child had a disability, e.g. if the parent had requested an evaluation. 34 C.F.R. § 300.534.

- If a request for an evaluation is made while a student is in a disciplinary removal, the evaluation must be conducted on an expedited basis.

## Advocacy Tips

### Before Your Client is Suspended or Expelled

- Be proactive, especially if your student has previously struggled with school discipline.
  - When sending records requests, include a specific request for all disciplinary records, and ask that they be contemporaneously provided to you.
  - For students not yet found eligible for special education and related services, notify the school system that you believe they are eligible and should be afforded the protections of an eligible student until the eligibility process is completed.
  - Determine, at the outset of each school year, how the “chain of command” works with respect to discipline in your student’s school, e.g., are suspension requests signed off on by specific school personnel, or are they supposed to be? Ensure that all correspondence regarding eligibility is copied to that individual, as well as the special education coordinator or principal where appropriate.
- Make sure your client informs you of suspension days that may not be formal suspensions ---e.g., the student being sent home early or the parent being told to keep the student home for a field trip or other school day.

### When Your Client Receives a Short-Term Suspension

- Immediately contact the school and request all documentation regarding the suspension.
- If documentation is not received contemporaneously, ask directly (or have your client) ask the student what happened, and in writing memorialize your client’s version of events as well as the fact that documentation was not provided.
- Keep track and provide the school with notice when the student has been suspended out of school (including send homes) for ten days.

### When Your Client Receives a Long-Term Suspension or Expulsion

- If a student is referred for a long-term suspension (10 days or more, or an out of school suspension that brings the student over the 10th day), the school must hold a Manifestation Determination (MDR) meeting before the student hits the 10th day to prevent a denial of FAPE.
- Students may be suspended for long-term periods without the MDR being held first, but only in cases of extreme risks to health and safety. Push the school district to be very clear about why a student is a safety risk if they are advocating the student be suspended for these reasons, especially if they are not recommending a change in placement.
- If the student is suspended for more than 10 days they will be referred for a hearing at the Office of Administrative Hearings.



## At the Manifestation Determination Review Meeting (MDR)

- Prior to the MDR meeting, you should be provided with all of the student's records. If you have not, note this objection at the outset of the MDR meeting. Also make sure to discuss with the student beforehand whether they have given any reports or statements about the incident and what they plan to say at the MDR.
- Sometimes it is best to have the student write a letter or statement to use as a guide for their discussion or in lieu of providing an oral statement, as the student may become upset or frustrated when the incident is discussed or different versions of the incident are shared.
- Advocate for extended discussion at the MDR of both the impact of the student's disability, and whether or not the school district is implementing the IEP, including whether or not the school has timely developed a Functional Behavioral Assessment and Behavioral Intervention Plan.

## If Your Client is Suspended

- Make sure they have been placed in an alternative setting that can implement the student's IEP.
- In the case of charter schools, make sure the alternate educational setting is identified at the MDR. Charter schools cannot place students at DCPS' alternative placement (called "CHOICE" Academy) and often don't have an identified alternative placement for disciplinary purposes. As a result, they are often confused about where to place a student, but long-term discipline removal must be to an appropriate interim alternative educational setting that can implement the students' IEP, which most likely cannot be done in the student's home or at a local library (as schools often propose).

# CLC Tip Sheet

## Student Discipline in DC Schools

### What governs school discipline for students enrolled in DC schools?

The laws or policies governing how students are disciplined in school depend on where they attend. Most charter schools maintain their own policies regarding discipline and students' rights. For students enrolled in DCPS, the disciplinary regulations can be found at 5 D.C.M.R. § B-2500 and 1 D.C.M.R. § 2901 et. seq. Special education students also have some disciplinary protections granted by federal law (for more information on this topic, see our Tipsheet on Special Education and Discipline in this Section).

### Do those regulations apply to DC public charter schools as well?

No. Charter schools are exempt from local laws and regulations and thus, each school is free to set their own disciplinary policies and procedures. Those procedures can usually be found in the charter school's Parent or Student Handbook. For a listing of all the handbooks currently available, you can go to: <https://www.dcpsb.org/>

### What are the guiding principles of the DC school disciplinary regulations?

- Students should remain in their instructional program to the maximum extent possible.
- Discipline should be implemented progressively, beginning with the least severe appropriate response; expulsion should always be the last resort.
- Disciplinary responses should be logical, appropriate and instructive.

### How is discipline defined in the DC disciplinary regulations?

Disciplinary responses are divided into 5 tiers. Tier 1 is for minor infractions and Tier 5 is the most severe. Each tier has allowable consequences that correlate with the severity of the violation. A chart of each tier, the behaviors that fall in it and the available disciplinary responses are included in this Section.

### What are the lengths of each suspension type?

- **Short Term suspension:**
  - 1-5 school days for middle & high school
  - 1-3 school days for elementary school
- **Medium term suspension:**
  - 6-10 school days
- **Long Term suspension:**
  - 11-90 school days

### What are some examples of permissible disciplinary responses?

For lower tier offenses: verbal redirection, teacher/student conference, parental contact, temporary removal from the classroom, in-school disciplinary action or development of a behavioral contract. For higher tier offenses: all of the previously listed interventions/responses, plus on-site short term suspension with interventions, off-site medium to long-term suspensions, or expulsion as warranted; however, expulsion and any form of school exclusion should always be the last resort.

### Can a DCPS student be suspended for missing school or showing up without a uniform?

No. The DC disciplinary regulations specifically prohibit DCPS schools from suspending or expelling students for unexcused absences or failing to adhere to a mandatory uniform policy.

### What, if any action, are school principals supposed to take to ensure everyone is informed about the disciplinary policies and that all incidents of discipline are recorded?

Principals should ensure that a copy of DCPS' policies and procedures on discipline are made available to each student and parent within 30 days after the start of the school year.

### Can disciplinary action be taken against a student for actions that occur anywhere or at any time?

No. In order to take disciplinary action against a student in a DCPS school, the behavior must have occurred: 1) on school grounds; 2) on or off school grounds while participating in and attending a school function or activity, including field trips, extracurricular activities, or athletic events; 3) off school grounds and traveling in transportation provided by DCPS.

Students can also be disciplined for committing a prohibited offense during before-school or after-school programs or for committing a prohibited offense off school grounds or outside regular school hours that results in significant disruption to the school environment.

### What due process rights should DCPS schools be providing to students whenever a suspension or expulsion is being recommended?

- **Right to Written Notice:** The student and parent must be given written notice of all disciplinary action no later than 1 day after the disciplinary action is recommended.
  - That notice should include:
    - A description of the infraction and the rules upon which the action is based;
    - A summary of the facts;
    - The length of the proposed suspension or expulsion;
    - The recommendation for an education Plan or alternative educational setting; and
    - Information about the student's right to appeal.
- **Right to a Student Conference:** A school official must convene a conference with the student before taking disciplinary action to get their version of events.
  - The conference may include the parent or guardian and or the student's legal representative, but their participation is not required.
- **Right to Remain in School Until a Final Disciplinary Determination is Made:** only where emergency conditions exist (see next question below) should a student be restricted from attending school prior to a conference or hearing.
- **Right to a Disciplinary Hearing** (whenever expulsion or a suspension of 11+ days is recommended) – in these instances, the case is automatically referred to OAH for a disciplinary hearing. For more information on the hearing process, read below.
- **Right to Inspect Records:** the student has a right to examine the student's records and the official report of the incident.

➤ **Right to Appeal the Disciplinary Action:**

- **Short to medium-term suspensions:** Parent or guardian must request an appeal orally or in writing within 2 school days of receiving notice of the disciplinary action; appeal should be heard by principal or Chancellor's designee within 1 school day with a decision issued within 1 school day of the decision being heard.
- **Long-term suspensions or expulsions:** Parent must appeal within 5 school days of receiving notice of the decision (based on the school's recommendations following the OAH hearing); Office of Youth Engagement ("OYE") (suspensions) or the Chancellor's Office (expulsions) should convene a conference within 3 school days to consider the appeal; OYE or the Chancellor's office shall render a final decision no later than 2 school days after the conference.

**Who oversees the disciplinary hearings for long-term suspensions and expulsions?**

DC's Office of Administrative Hearings ("OAH") oversees the disciplinary hearings for DCPS Students and the hearings are scheduled by OYE. The parent should receive a notice of the hearing several days prior to the scheduled hearing date and all hearings are conducted at the OAH offices located at: 441 4<sup>th</sup> Street, NW, Suite 450, Washington DC 20001 (right by the Judiciary Square metro stop).

**What is the purpose of the disciplinary hearing?**

The hearing gives both the parent/student and the school an opportunity to present their version of the facts. At the conclusion of the hearing, the administrative law judge will decide:

- Whether the student committed the alleged violations;
- The proper Disciplinary Tier for any violation committed; and
- Whether due process procedures have been followed.

**Is there any time that a student can be suspended or expelled from school immediately without following the above procedures?**

A student may only be excluded from school prior to a conference or hearing if they are contributing to an emergency situation at the school (defined at 5 D.C.M.R. § B-2504.4). This includes: setting a series of fires or false alarms, causing a large number of abuses of property or any behavior so disruptive or dangerous that it poses a real and immediate threat to the health and safety of the school community or the ability of the school to continue normal operations.

**What are the student's due process rights in the conduct of disciplinary hearings?**

- **Right to a continuance:** the parent/student may request to postpone the hearing up to 5 school days to prepare and secure witnesses for the hearing.
  - OAH has a standard form parents (or attorneys) can file to request another hearing date, accessible here: <http://oah.dc.gov/node/176542>.
- **Right to inspect records:** the parent/student has a right to inspect and see copies of the student's entire disciplinary file.
  - These records can be requested from OYE if the school cannot produce copies.

- **Right to bring a representative of the student's choice**
  - It is highly recommended that GALs attend these hearings to defend their client's interests if they are able.
  - If you intend to serve as an attorney for the child at the hearing, you should file a notice of appearance to OAH in advance of the hearing – the standard form and filing instructions can be accessed on OAH's website: <http://oah.dc.gov>.
- **Right to call witnesses and present documentary evidence in support of their case:**
  - The judge and school district representative may ask questions of any witness presented.
- **Right to ask questions of any witness presented by the school and challenge any of their exhibits.**

### **When will OAH issue a decision and what impact does that decision have on the student?**

The ALJ shall issue findings of fact and conclusions of law within one school day after the record closes. If the decision concludes that the student committed the alleged offense, DCPS is bound by the ALJ's findings of facts and conclusions of law, but has the discretion to decide the appropriate punishment within the proper tier found by the ALJ. If the decision concludes the student did not commit the alleged offense, DCPS is bound by that decision and cannot take further disciplinary action.

### **So if the ALJ recommends that a suspension be reduced to fewer days in his/her decision, the school can ignore that recommendation and still issue a longer suspension?**

Yes, so long as a longer term suspension is permitted within the applicable Tier as decided by the ALJ, the school has that discretion.

### **What can a parent do if they disagree with the ultimate disciplinary action recommended by the school?**

The parent can appeal the final notice of discipline to either OYE or the Chancellor within 5 school days of receiving the notice.

# Student Fair Access to School Amendment Act of 2018

## Summary

On July 12, 2018, the District of Columbia enacted uniform school discipline reforms applying to both DC Public Schools (DCPS) and public charter schools—the Student Fair Access to School Amendment Act of 2018 (Law 22-157). This new law helps ensure children with disabilities, children of color, and children in the foster care system will no longer be marginalized by being regularly sent home from school instead of receiving the educational supports they need to stay in the classroom and continue learning. Children’s Law Center, along with members of the Every Student Every Day Coalition, helped shape the legislation, which also drew from the experience of parents, teachers, lawyers and experts in the field to determine how to best keep students in school and learning.

Below is a summary of the new law. Unless otherwise noted, provisions of the law are effective as of August 25, 2018. Some of the changes will go into effect immediately, other reforms will be phased in at later dates, and still others will go into effect only if there is funding available.

### Reforms to Shorten Removals & Stop Removals for Non-Violent Behavior

The Student Fair Access to School Amendment Act sets limits on schools’ use of suspensions, expulsions, and involuntary transfers as disciplinary consequences.

**Attendance-related Discipline Outlawed:** Schools are prohibited from using out-of-school suspensions, expulsions, or involuntary transfers for unexcused absences or late arrivals to schools. However, students can be unenrolled after accumulating 20 or more consecutive full-school-day unexcused absences.

**Out-of-School Suspension Limit of 5 Days in Elementary School:** The duration of each out-of-school suspension cannot exceed **five consecutive school days** in Kindergarten through Grade 5.

**Out-of-School Suspension Limit of 10 Days in Middle & High School:** The duration of each out-of-school suspension cannot exceed **ten consecutive school days** in Grades 6 through 12.

**Out-of-School Suspension Limit of 20 Days Total in All Grades:** Regardless of grade, a student cannot be suspended from school for more than **twenty cumulative school days** in a school year. However, an exception may be made if the head of the LEA provides written justification to the student and parent of the student’s conduct resulted in an emergency removal and written justification is provided by the head of the LEA to the student and parent.

**Limits on Exclusionary Discipline Use in Elementary & Middle School (Effective Date: Upon funding but no earlier than SY2019-2020; was not funded in DC's Fiscal Year 2019 [FY19] budget):** The use of out-of-school suspensions, expulsions, and involuntary transfers in Kindergarten through Grade 8 is limited to incidents where a student's behavior poses a safety or emotional distress concern.

**Limits on Exclusionary Discipline Use in High School (Effective Date: Upon funding but no earlier than SY2020-2021; was not funded in DC's FY19 budget):** In Grades 9 through 12, an out-of-school suspension, expulsion, or involuntary transfer cannot be used consequently for any dress code violation, willful defiance, or any incident occurring off school grounds that is not part of a school-sponsored activity (unless the student's behavior poses a safety or emotional distress concern),

## Uniform Definitions

The Student Fair Access to School Amendment Act provides uniform definitions applicable to all DCPS and public charter schools.

**"Out-of-School Suspension" Definition Includes Partial Days:** The "out-of-school suspension" definition clearly includes disciplinary removals from school attendance that are less than full school days and includes "involuntary dismissals." An "involuntary dismissal" is the removal of the student from school attendance for less than half of a school day.

**Involuntary Transfers Are Same as Expulsions:** The definition of "disciplinary unenrollment" is found in several provisions of the law that limit its use and includes both "expulsions" and "involuntary transfers."

**"Willful Defiance" Defined:** A lot of research show that students of color are seen as insubordinate, defiant, or disrespectful in situations where their white peers are not seen that way for the same behaviors. As such, the definition of "willful defiance" was included to cover such situations.

## Right to Due Process Hearing for Shorter Suspensions

**Higher Level of Due Process Required Earlier:** For purposes of due process before deprivation of the attending school, a suspension of **six school days or more** is now a "long-term suspension." DCPS must provide a hearing at the Office of Administrative Hearing and public charter schools must provide a comparable type of hearing for any out-of-school suspensions of six days or longer.

## Improved Disability Protections

**Schools Must Consider whether ALL Disabilities were Root Cause of Behavior:** In a manifestation determination review (MDR), all of a student's disabilities, of which the school had prior knowledge, must be considered. Schools must stop only considering the Primary Disability listed on the Individualized Education Program as they determine whether the child's conduct was caused by the child's disabilities.



## Lack of Parent Attendance Cannot Prolong Suspensions

**Outlaws Extended Suspensions because a Parent Has Not Come to the School:** Schools cannot keep children out of school longer than the original suspension because a parent/guardian has not come to the school. This includes requiring a parent/guardian to accompany the student to school or attend a conference/re-entry meeting.

## School Policies

The Student Fair Access to School Amendment Act fosters reform in local education agencies' (LEA) policies for school climate and discipline, including an emphasis on positive behavior.

**School Policy Changes:** LEAs are required to develop more transparent, robust, and evidence-based school discipline policies, in consultation with school personnel, students, and parents. The policies must ensure students can access their educational program and clearly state the due process rights and procedures available to students and parents/guardians. In addition:

- The LEA/school must provide students and parents/guardians a copy of its school discipline policy and explanations of the policy, including explanations of expectations, rights, and responsibilities of students under the policy.
- The LEA/school must make the school discipline policy publicly available, including on the LEA/school's website.

**Continuity of Education Plan:** Schools are required to have a general plan for continued education for any student suspended (in-school or out-of-school). While the plan can be modified to meet the needs of an individual student, it must ensure students:

- Continue their studies during the suspension and receive all appropriate assignments for the duration of the suspension;
- Can communicate with school personnel about academic work; and
- Can make up any school work missed during the suspension, if it cannot be completed during the suspension.

## School and Educator Supports

The Act creates additional supports provided by the Office of the State Superintendent of Education (OSSE) to promote trauma-informed educational settings.

**School Safety and Positive Climate Fund:** OSSE is required to support schools with technical assistance, high-quality professional development, and the facilitation of postsecondary degree/certificate programs, including a trauma-informed educator certificate program. The fund will be used to support these requirements, as well as additional needed school supports for interventions.

**School Supports (Effective Date: Upon funding; was not funded in DC's FY19 budget):** OSSE is also required to provide LEAs with any needed additional supports for interventions that allow them to reduce their use of exclusionary discipline.



AN ACT  
**D.C. ACT 22-398**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**JULY 12, 2018**

To amend Title II of the Attendance Accountability Amendment Act of 2013 to require its application to District of Columbia Public Schools and public charter schools, establishing parameters for local education agencies' policies on school climate and discipline, limiting the use of out-of-school suspensions, expulsions, and disciplinary unenrollments to certain categories of conduct and limiting the length of out-of-school suspensions, requiring special considerations around the discipline of students with disabilities, directing the Office of the State Superintendent of Education to support local education agencies and schools in reducing out-of-school suspensions, expulsions, and disciplinary unenrollments and fostering positive school climates, establishing a School Safety and Positive Climate Fund, and imposing new annual reporting requirements on the use of specific disciplinary practices across delineated demographics of students; and to amend An Act To provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes, the Pre-k Enhancement and Expansion Amendment Act of 2008, the District of Columbia School Reform Act of 2005, and the State Education Office Establishment Act of 2000 to make conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Student Fair Access to School Amendment Act of 2018".

Sec. 2. Title II of the Attendance Accountability Amendment Act of 2013, effective September 19, 2013 (D.C. Law 20-17; D.C. Official Code § 38-235 *et seq.*), is amended as follows:

(a) The title heading is amended to read as follows:

"TITLE II. STUDENT DISCIPLINE".

(b) Sections 201 and 202 are redesignated as sections 208 and 209, respectively.

(c) New sections 201 through 207 are added to read as follows:

"Sec. 201. Definitions.

"For the purposes of this title, the term:

“(1) “Bodily injury” means a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

“(2) “Community-based organization” shall have the same meaning as provided in section 101(1A) of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01(1A)).

“(3) “Disciplinary unenrollment” means the expulsion or involuntary transfer of a student from a school.

“(4) “Emergency removal” means the immediate out-of-school suspension or disciplinary unenrollment of a student based on the school’s reasonable belief that the student’s presence poses an immediate and continuing danger to other students or school staff.

“(5) “Emotional distress” means mental suffering or distress that requires more than trivial treatment or counseling.

“(6) “Exclusion” means the removal of a student from the student’s daily class schedule for disciplinary reasons and includes a suspension or a disciplinary unenrollment.

“(7) “Expulsion” means the removal of a student from the student’s school of enrollment for disciplinary reasons for the remainder of the school year or longer, in accordance with local education agency policy.

“(8) “In-school suspension” means temporarily removing a student from the student’s regular class schedule as a disciplinary consequence, during which time the student remains on school grounds under the supervision of school personnel who are physically in the same location as the student.

“(9) “Involuntary dismissal” means the removal of the student from school attendance for less than 1/2 of a school day for disciplinary reasons, during which time the student is not under the supervision of school personnel and is not allowed on school grounds.

“(10) “Involuntary transfer” means the removal of a student from the student’s school of enrollment for disciplinary reasons for the remainder of the school year, or longer, and the student’s enrollment in another school within the same local education agency, in accordance with local education agency policy.

“(11) “Local education agency” means the District of Columbia Public Schools system or any individual or group of public charter schools operating under a single charter.

“(12) “OSSE” means the Office of the State Superintendent of Education established by section 2 of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-201).

“(13) “Out-of-school suspension” means the temporary removal of a student from school attendance to another setting for disciplinary reasons, during which time the student is not under the supervision of the school’s personnel and is not allowed on school grounds.

“(A) The term “out-of-school suspension” includes an involuntary dismissal.

“(B) For students with disabilities, the term “out-of-school suspension” includes a removal in which no individualized family service plan or individualized education plan services are provided because the removal is 10 days or fewer as well as removals in which the student continues to receive services according to the student’s individualized family service plan or individualized education plan.

“(14) “Parent” means a parent, guardian, or other person who has custody or control of a student enrolled in a school in a local education agency.

“(15) “Referral to law enforcement” means an action by school personnel to report a student to a law enforcement agency or official, including a school police unit, for an incident that occurs on school grounds, during off-campus school activities, or while taking school transportation.

“(16) “School-based intervention” means temporarily removing a student from the student’s regular class schedule for the purpose of providing the student with school-based targeted supports, such as behavioral therapy, in response to student conduct that would otherwise warrant an in-school suspension.

“(17) “School-related arrest” means an arrest of a student for an activity conducted on school grounds, during off-campus school activities, while taking school transportation, or due to a referral to law enforcement by the student’s school.

“(18) “Student with a disability” means a student who qualifies as a child with a disability under section 602(3) of the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2652; 20 U.S.C. § 1401(3)).

“(19) “Suspension” means an in-school suspension or an out-of-school suspension.

“(20) “Willful defiance” means disrupting school activities or intentionally defying the valid authority of school staff.

“Sec. 202. Application.

“This title shall apply to the District of Columbia Public Schools and public charter schools, including the schools’ pre-kindergarten programs.

“Sec. 203. Establishment of school discipline policies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(c) The school discipline policy of a local education agency that operates a pre-kindergarten program shall be consistent with the requirements of section 303 of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03).

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

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

“Sec. 204. Limitations on exclusion as a disciplinary action.

“(a) Unless otherwise required by federal or District law:

“(1) Beginning in school year 2019-2020, no student in grades kindergarten through 8 may be subject to an out-of-school suspension or disciplinary unenrollment, unless a school administrator determines, consistent with school policy, that the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person, including behavior that happens off school grounds;

“(2) Beginning in school year 2020-2021, no student in grades 9 through 12, except a student over 18 years of age at a school where more than 1/2 of the students are over 18 years of age, may be subject to an out-of-school suspension or disciplinary unenrollment for:

“(A) Violating local education agency or school dress code or uniform rules;

“(B) Willful defiance; or

“(C) Behavior that happens off school grounds and not as part of a school-sponsored activity, unless the student has willfully caused, attempted to cause, or threatened to cause bodily injury or emotional distress to another person.

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

“(1) Five consecutive school days for any individual incident in grades kindergarten through 5;

“(2) Ten consecutive school days for any individual incident in grades 6 through 12; or

“(3) Twenty cumulative school days during an academic year regardless of grade, unless:

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

## ENROLLED ORIGINAL

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

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

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

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

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

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

“(h)(1) On a quarterly basis, each local education agency shall submit a report, which shall be a public document, to the Council delineating by school the following information:

“(A) For students in grades kindergarten through 5, the number of students suspended for one to 5 consecutive school days and for 6 or more consecutive school days;

“(B) For students in grades 6 through 12, the number of students suspended for the following number of consecutive school days:

“(i) One to 5;

“(ii) Six to 10; and

“(iii) Eleven or more;

“(C) The number of students who have been suspended, on a cumulative basis, the following number of school days:

“(i) One to 5;

“(ii) Six to 10;

“(iii) Eleven to 15;

“(iv) Sixteen to 20; and

“(v) Twenty-one or more; and

“(D) The number of students subject to disciplinary unenrollment.



“(2) If a local education agency is comprised of one or more public charter schools, the Public Charter School Board may submit the quarterly reporting required in paragraph (1) of this subsection to the Council on behalf of the local education agency.

“Sec. 205. Exclusion of students with disabilities.

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

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

“Sec. 206. Support for positive school climate and trauma-informed educational settings.

“(a) The Office of the State Superintendent of Education shall provide an array of supports to assist local education agencies and schools to achieve the goals of sections 203 through 205 and to adopt trauma-informed disciplinary practices. The OSSE shall provide local education agencies and schools with, among other supports, the following:

“(1) Guidance and materials that inform local education agencies and school communities about developments in the fields of school climates and behavioral management;

“(2) Regular, high-quality professional development opportunities and technical assistance, and recommendations for further instruction outside of these opportunities, for local education agency and school personnel on:

“(A) Trauma and chronic stress, their effects on students and learning, and effective responses;

“(B) Classroom management, positive behavioral interventions, and fostering positive school climate;

“(C) Disciplinary approaches that utilize instruction and correction;

“(D) Restorative practices and other evidence-based or promising behavioral interventions;

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

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

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

“(4) Technical assistance and supportive services, including non-instructional personnel with specialized expertise in behavioral health, trauma-informed educational settings, and restorative justice practices, to assist local education agencies and schools in developing and

revising disciplinary plans and reducing the use of exclusion by addressing the causes of student misconduct.

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

“(c) The OSSE may enter into a grant or contract with one or more nonprofit organizations, a memorandum of understanding with the Department of Behavioral Health, or any combination thereof, for the purpose of providing local education agencies and schools the services mandated pursuant to subsection (a) of this section.

“(d) Within 2 years after the effective date of the Student Fair Access to School Amendment Act of 2018, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), and every 5 years thereafter, the OSSE shall submit to the Mayor and the Council an evaluative report on local education agency and school implementation of practices to promote school safety and reduce the use of exclusion, which shall:

“(1) Be based upon rigorous research techniques, including quantitative and qualitative methods;

“(2) Draw on the information maintained and reported pursuant to section 209, as well as other sources, with a particular focus on:

“(A) Ensuring the fidelity of data reporting;

“(B) Unanticipated consequences of the disciplinary policies and practices adopted pursuant to this title;

“(C) Barriers schools face in implementing the policies and practices required pursuant to this title; and

“(D) Effective approaches utilized by schools to avoid reliance on exclusion and reduce disparities in its use;

“(3) Provide specific recommendations for further action by the Council, executive branch, and schools; and

“(4) Provide suggestions for further research.

“Sec. 207. School Safety and Positive Climate Fund.

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

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

“(c) Money in the Fund shall be used solely to support the activities described in section 206.



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

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

(d) Redesignated section 209 (D.C. Official Code § 38-236) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1)(H) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(B) Paragraph (2) is amended as follows:

(i) Subparagraph (A) is amended by striking the phrase “out-of-school suspensions and in-school suspensions” and inserting the phrase “in-school suspensions, out-of-school suspensions, involuntary dismissals, and emergency removals” in its place.

(ii) Subparagraph (C) is amended by striking the phrase “suspension;” and inserting the phrase “suspension, and whether the student attended;” in its place.

(iii) Subparagraphs (D) through (F) are amended to read as follows:

“(D) Whether the student was subject to a disciplinary unenrollment during the school year;

“(E) Whether the student voluntarily withdrew or voluntarily transferred from the school during the school year;

“(F) Whether the student was subject to referral to law enforcement;”.

(iv) New subparagraphs (G) and (H) are added to read as follows:

“(G) Whether the student was subject to school-related arrest; and

“(H) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary unenrollment, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest and, for students with disabilities, change in placement; and”.

(C) A new paragraph (3) is added to read as follows:

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

“(A) A functional behavioral assessment;

“(B) An updated behavior improvement plan; or

“(C) A manifestation determination review, including the number of suspension days that triggered the review, whether the suspension days were cumulative, and the outcome of the review.”.

(2) Subsection (b) is amended to read as follows:

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

“(1) The students suspended for:

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

“(B) At least 6 and no more than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

“(C) More than 10 days and whether the suspension was an in-school suspension or an out-of-school suspension;

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

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

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

“(5) The students involuntarily dismissed:

“(A) At least once and no more than 5 times;

“(B) At least 6 times and no more than 10 times;

“(C) More than 10 times;

“(6) The students subject to emergency removals;

“(7) The students subject to a disciplinary unenrollment, disaggregated by type of disciplinary unenrollment;

“(8) The students who voluntarily withdrew or transferred;

“(9) The students subject to referral to law enforcement;

“(10) The students subject to school-related arrest;

“(11) A description of the misconduct that led to or reasoning behind each suspension, involuntary dismissal, emergency removal, disciplinary withdrawal, voluntary withdrawal or transfer, referral to law enforcement, school-based arrest, and, for students with disabilities, change in placement;

“(12) Whether the student received a functional behavior assessment, an updated behavioral improvement plan, or a manifestation determination review, as those terms are used in the Individuals with Disabilities Education Act, approved December 3, 2004 (118 Stat. 2745; 20 U.S.C. § 1400 *et seq.*), and the outcomes of those actions; and

“(13) Whether the student was subject to suspensions exceeding the time limits described in section 204(b), and a summary of the written justification provided by the local education agency for those disciplinary actions.”.

(3) Subsection (c) is amended as follows:

(A) Designate the existing text as paragraph (1).

(B) A new paragraph (2) is added to read as follows:

“(2) The OSSE shall collaborate with local education agencies and publicly funded community-based organizations to develop consistent definitions for the types of misconduct and explanations of reasoning required to be maintained or reported pursuant to subsections (a)(2)(H) and (b)(11) of this section.”.

(4) Subsection (d) is amended as follows:

(A) Strike the phrase “suspensions and expulsions that were imposed in local education agencies and publicly funded community-based organizations” and insert the phrase “data provided by local education agencies and community-based organizations in subsection (b) of this section” in its place.

(B) Strike the period and insert the phrase “. The report shall include a trend analysis based on available data, including data drawn from the Youth Risk Behavior Survey, school climate surveys, and any other available sources, of the exclusion of students who identify as lesbian, gay, bisexual, questioning of the student’s sexual orientation, transgender, gender nonconforming, or questioning of the student’s gender identity or expression.” in its place.

(5) Subsection (e) is repealed.

(6) A new subsection (e-1) is added to read as follows:

“(e-1) The OSSE, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.”.

### Sec. 3. Conforming amendments.

(a) Sections 2(f-1) and (f-2) of Article II of 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 § 38-203(f-1) and (f-2)), are repealed.

(b) The Pre-k Enhancement and Expansion Amendment Act of 2008, effective July 18, 2008 (D.C. Law 17-202; D.C. Official Code § 38-271.01 *et seq.*), is amended as follows:

(1) Section 101(5A) (D.C. Official Code § 38-271.01(5A)) is amended by striking the phrase “the removal of a student from school attendance for an entire school day or longer” and inserting the phrase “the temporary removal of a student from school attendance to another setting for disciplinary reasons, during which time the student is not under the supervision of the school’s personnel and is not allowed on school grounds” in its place.

(2) Section 303(a) (D.C. Official Code § 38-273.03(a)) is amended by striking the phrase “be expelled” and inserting the phrase “receive a disciplinary unenrollment, as defined in section 201(3) of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594),” in its place.

(c) Section 2206(g) of the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.06(g)), is amended to read as follows:

“(g) Expulsion and suspension. – (1) A public charter school shall comply with sections 203 through 205 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594).

“(2) The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school, consistent with sections 204 and 205 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), and section 303 of the Pre-k Enhancement and Expansion Amendment Act of 2008, effective June 23, 2015 (D.C. Law 21-12; D.C. Official Code § 38-273.03).”.

(d) Section 3(b) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), is amended as follows:

(1) Paragraph (28) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(2) Paragraph (29) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new paragraph (30) is added to read as follows:

“(30) Provide schools the supports mandated pursuant to section 206 of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594).”.

#### Sec. 4. Applicability.

(a) Sections 204(a), 204(b), 206, and 207 of Title II of the Attendance Accountability Amendment Act of 2013, passed on 2nd reading on May 1, 2018 (Enrolled version of Bill 22-594), added by section 2(c), shall apply upon the date of inclusion of the section’s fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of a section’s fiscal effect in an approved budget and financial plan, and provide notice to the Budget Director of the Council of the certification.

(c)(i) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of the section.

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Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia

\_\_\_\_\_  
UNSIGNED  
Mayor  
District of Columbia  
July 11, 2018



**COUNCIL OF THE DISTRICT OF COLUMBIA  
WASHINGTON, D.C. 20004**

Docket No. **B22-594**

☐ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

**ADOPTED FIRST READING, 4/10/2018**

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

**APPROVED**

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Todd	X			
Allen	X				Grosso	X				White, R.	X			
Bonds	X				McDuffie	X				White, T.	X			
Cheh	X				Nadeau	X								
Evans	X				Silverman	X								
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

**5/17/18**

Date

☐ ITEM ON CONSENT CALENDAR

☒ ACTION & DATE

**ADOPTED FINAL READING, 5/1/2018**

☒ VOICE VOTE

RECORDED VOTE ON REQUEST

**APPROVED**

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Gray	X				Todd	X			
Allen	X				Grosso	X				White, R.	X			
Bonds	X				McDuffie	X				White, T.	X			
Cheh	X				Nadeau	X								
Evans	X				Silverman	X								
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

**5/17/18**

Date

☐ ITEM ON CONSENT CALENDAR

☐ ACTION & DATE

☐ VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT

☐ ROLL CALL VOTE – Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson					Gray					Todd				
Allen					Grosso					White, R.				
Bonds					McDuffie					White, T.				
Cheh					Nadeau									
Evans					Silverman									
X – Indicate Vote					AB – Absent					NV – Present, Not Voting				

CERTIFICATION RECORD

Secretary to the Council

Date