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## Executive Summary

# EQUITY IN SCHOOL DISCIPLINE

An Examination of School Disciplinary Policies and Practices in the District of Columbia Public Education System and Recommendations for Reform

# Executive Summary

The Council for Court Excellence (CCE) is pleased to present its report, “Equity in School Discipline: An Examination of School Disciplinary Policies and Practices in the District of Columbia Public Education System and Recommendations for Reform,” hereinafter “Equity in School Discipline.” In January 2014, the US Departments of Education and Justice released federal guidance to enhance school climate and improve school discipline policies and practices.<sup>1</sup> This groundbreaking guidance addressed what many advocates and researchers have known for years—that harsh and exclusionary school disciplinary policies and practices were having an adverse impact on American youth and particularly on students of color and students with disabilities. In an effort to help school districts across the country adhere to the federal and civil rights protections, thus implement school discipline more equitably and create healthy school climates for children and adults, this guidance offers best practices in school discipline and provides resources, technical assistance and a compendium of the state and local laws that govern school discipline.

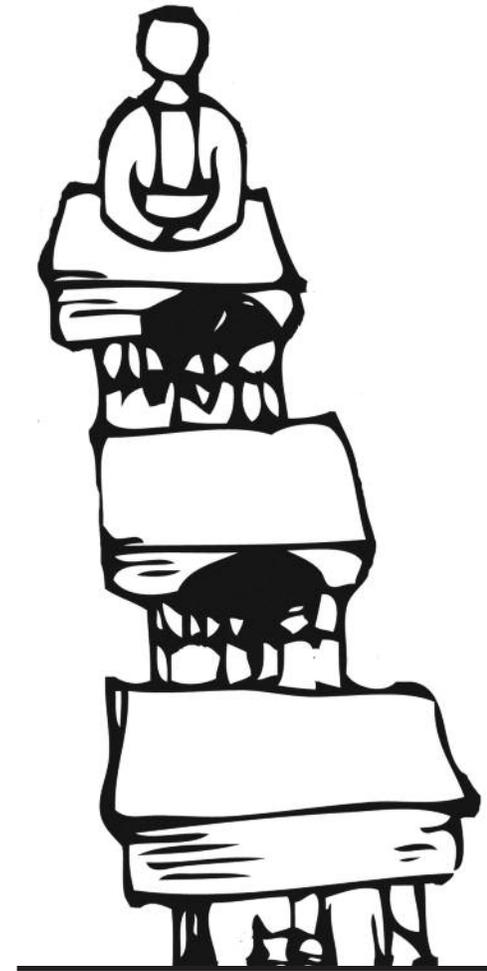
## About This Report

Building on the federal school discipline guidance, “Equity in School Discipline” begins by comprehensively describing the District of Columbia’s traditional and charter public school disciplinary systems. In addition, the report provides an assessment of the discipline policies that traditional and charter schools follow. It then outlines the due process rights that are afforded to District youth who may be facing exclusion from school based on behavior in violation of school discipline codes. This section also offers “Quick Tips” that provide helpful information to attorneys, advocates, parents, and students who may be challenging a disciplinary action. The report ends by profiling the voices of select school administrators from DC traditional and charter middle and high schools who are responsible for developing and implementing school discipline policies. These school administrators share best practices and ways to improve discipline in schools.

### Why did CCE study the school discipline issue and produce this report? And what is the link to the administration of justice?

CCE has a long history of focusing on children in the courts and their involvement in the child welfare system. In more recent years, the Council has studied the District’s juvenile justice system and contributing factors on the front end that may be causing District youth to enter, or be at risk of entering, the juvenile justice system. CCE therefore became concerned with school discipline policies and practices that may push students out of the classroom and result in students falling further behind academically and onto a path of disengagement or involvement with the juvenile and, ultimately, the adult criminal justice systems. CCE saw a need to comprehensively describe and assess these complex disciplinary systems and policies in relation to the justice system.

The report presents the assessment of sixty-two charter school discipline code policies for the 2012-2013 school year and *DC Municipal Regulations* (DCMR) Chapter B25, the discipline code governing DC traditional public schools. Our assessment revealed the following key findings that may perpetuate school push-out and inequity in discipline and educational outcomes:



- More than half, or 64%, of the DC charter school discipline codes use zero-tolerance provisions for non-violent and violent acts that result in automatic expulsion; DCMR Chapter B25 does not provide for zero-tolerance provisions.
- Only 38% of charter school discipline codes expressly obligate or allow a suspended student to participate remotely in academic coursework. Fifty-nine percent of the charter school discipline code policies are silent about remote academic participation. DCMR Chapter B25 expressly allows for students to participate remotely in academic coursework.
- Charter school discipline codes varied in adherence to due process procedures ensured by the US Constitution, including the right to receive notice of a disciplinary infraction, right to a hearing or to respond to alleged behavior, and right to appeal. DCMR Chapter B25 adheres to these due process procedures.
- Just 52% of charter school discipline codes allow for additional due process protections for students with special needs. DCMR Chapter B25 expressly states provisions for disciplining students with disabilities.
- Only 37% of DC charter school discipline codes provide for an impartial hearing officer or other person unaffiliated with the school to hear appeals of discipline decisions to exclude a student from school for a behavioral infraction. DCMR Chapter B25 provides for a hearing officer but does not specify an impartial hearing officer.
- Many charter school discipline codes are not accessible online, nor are they in languages other than English. A sampling of the charter school discipline codes demonstrated the need for a high school reading level to fully understand the codes. DCMR Chapter B25 is available online, in English only and has a college graduate reading level.

### What is the role of the courts and other justice related systems in reviewing student discipline cases?

CCE found that that while there are direct and indirect linkages to the DC juvenile justice system, student discipline cases are not prosecuted with the same frequency as in other jurisdictions. The report also reveals that student discipline cases are handled administratively, as opposed to before a judge in the local trial court. CCE's report examines the role of the Office of Administrative Hearings (OAH), the District's administrative court, in reviewing long-term suspension and expulsion student discipline cases from traditional public schools since 2012. Some of the main findings are:

- OAH has seen a 30% drop in the number of cases heard during the 2012-2013 and 2013-2014 school years.

- There has been a 7% increase in the number of cases where DCPS fails to appear, which results in an automatic default judgment for the student.
- Students in 92% of the 641 student discipline hearings held during the periods of January 2012-June 2012 and September 2012-June 2013, were not represented by a lawyer.
- OAH has seen a trend of DCPS designating cases as "emergency" even when the student's behavior does not rise to the level of an emergency. As a result, a student may not return to the school until final disposition of his or her case which can lengthen the amount of out-of-school time for the student.

### What perspectives do school administrators have on the use of exclusionary disciplinary practices, and what are some of the best practices and ideas around school discipline and keeping District youth in school?



CCE interviewed school administrators from five of the highest and lowest suspending and expelling traditional and charter middle and high schools in the District based on the "2012-2013 District of Columbia School Equity Report" data. The purpose of these interviews was to hear from school leaders who are responsible for implementing school discipline policy "on the ground." While we recognize that the schools profiled only represent

a small segment of the District's public education system, the following highlights from these interviews are instructive and contribute to the ongoing conversation around improving school discipline. Accordingly, CCE found that:

- Almost all of the school administrators interviewed believed that exclusionary discipline, such as out-of-school suspensions and expulsions, should be used as a last resort, and opted to use more restorative disciplinary approaches.
- Of the public charter schools profiled, each of the school administrators identified challenges in funding and having enough resources, such as professional development training on classroom management, on-site social workers and mental health services, etc., to address student discipline.
- Some of the schools allowed for parental and student engagement in evaluating and revising school discipline codes.
- The majority of the schools expressed the need for more data management systems to track students who have had multiple suspensions, and guidance on intervening before a student repeats bad behavior.

## What does CCE propose to make the DC traditional and charter school discipline systems more equitable and to improve school discipline in the District?

CCE offers the following ten policy recommendations for improving and making traditional and charter school discipline systems more equitable. These recommendations are not listed in any priority order.

### 1) The Office of the State Superintendent of Education (OSSE) should finalize and publish District-wide standards or best practices for school discipline.

In June 2014, OSSE released its report, “Reducing Out-of-School Suspensions and Expulsions in the District of Columbia Public and Public Charter Schools.” This report recommended working with stakeholders to finalize discipline-related regulations that establish basic standards for discipline. OSSE should continue working with local education agencies (LEAs) to finalize these standards and consider incentivizing them through funding opportunities.

### 2) Encourage traditional and charter schools to use exclusionary disciplinary practices (e.g., long-term suspensions and expulsions) only as a last resort.

Research overwhelming highlights the deleterious effects of exclusionary disciplinary practices on youth, including low academic achievement and linkages to the juvenile justice system. Restorative justice or other alternative approaches to school exclusion should be considered when disciplining students.

### 3) DCPS and charter school discipline codes and practices should adhere to due process requirements for all students; policies or regulations need to be developed on student discipline hearing waivers.

CCE’s assessment of charter school discipline codes revealed that just 68% of these codes provide for notice of a disciplinary infraction and hearing rights, while 57% of the codes explained students’ right to appeal discipline decisions. Due process procedures should be expressly provided in all discipline codes to ensure that students are aware of their rights when faced with a long-term suspension or expulsion. Additionally, regulations or policies are needed in both traditional and charter schools for waiving a student discipline hearing. There are currently no regulations or policies in place for student discipline hearing waivers to allow students the option of waiving their right to a hearing.

### 4) Increased compliance is necessary for DCPS and charter school discipline policies to provide additional due process protections for students with special education needs.

CCE’s assessment of charter school discipline codes found that 52% of the codes allow for additional due process protections for students with special education needs. That means that nearly half of the codes, or 48%, do not expressly provide for additional due process protections for this student population. Federal disability laws, such as the *Individuals with Disabilities Education Improvement Act*, require both traditional and charter schools to comply with these additional due process protections before excluding a student with a disability from the classroom environment. More efforts should be made to ensure compliance with federal disability law and to expressly provide for these protections in discipline codes.

### 5) DCPS and charter school student discipline hearings should be heard by an impartial hearing officer or someone unaffiliated with the LEA.

CCE’s assessment of charter school discipline codes found that 37% of the codes provided that an impartial person, other than the principal or board of directors, to conduct the student discipline hearing. DCMR Chapter B25 does not expressly provide for an impartial hearing officer, but DCPS has had an agreement since 2012 with the Office of Administrative Hearings (OAH) to hear student discipline cases on appeal. OAH has provided a unique model where an administrative law judge, familiar with the laws and due process requirements, has presided over DCPS student discipline cases. CCE believes that having hearing officers unaffiliated with the school, like the OAH administrative law judges, preside over the student discipline hearings, is a better way to ensure impartiality and fairness in process.

We also urge that parents of DCPS and charter school students facing long-term suspensions or expulsions be given a list of free legal services providers that help with student discipline hearings.

### 6) DCPS and the DC Public Charter School Board should improve school discipline data collection, especially data on involuntary transfers and withdrawals.

Policymakers, school officials, advocates and other stakeholders should track and monitor student transfers and withdrawals from traditional and charter schools to ensure that procedural protections are in place. Additionally, there should be improved data collection in this area that identifies the reasons for transfer or withdrawal.



**7) Law enforcement, namely the DC Office of the Attorney General (OAG) and Metropolitan Police Department (MPD), should improve how data are tracked on law enforcement referrals, school-based arrests and prosecutions involving student misconduct in schools to avoid unnecessary and unwarranted prosecutions.**

Improved data collection will better track school misconduct cases in relation to the juvenile justice system in the District. DC OAG does not track juvenile cases according to location (e.g., whether the incident occurred on or near school grounds). And while MPD keeps data on school-based arrests, the data do not indicate whether the arrest occurred during or after school hours on school days and do not include law enforcement referrals that do not result in arrest. Accordingly, it is hard to determine the number of cases referred to juvenile court due to misconduct at school. More data are needed to determine direct linkages to the juvenile justice system and to assess how these cases are being processed and whether they warrant prosecution.

**8) Assign permanent school resource officers (SROs) to LEAs, as opposed to rotating ones, and offer specialized training for the assigned SROs.**

CCE learned through its interviews with some of the DCPS and charter school administrators that MPD school resource officers (SROs), particularly at charter schools, often rotate instead of being permanently assigned to one campus. Rotating SROs are less likely to build relationships with students and the school community. Given that the role of SROs is to work with schools to mediate disputes before they escalate and to address truancy, it is harder to meet these goals if an SRO is floating. Where possible, permanent school resource officers should be assigned to schools. SROs should also receive specialized training to work with the student population in the school assigned.

**9) Establish a quality alternative school for charter schools and improve conditions and academic instruction at the DCPS alternative school, Choosing Higher Options for Individually Centered Education (C.H.O.I.C.E.) Academy.**

There is currently no formal alternative school for charter schools. When a student is suspended long-term from a charter school, there is no alternative educational setting to attend while awaiting a student discipline hearing or waiting out their suspension which has an impact on their academic achievement. As for the DCPS

alternative education school, the Office of the Ombudsman for Public Education noted several concerns about C.H.O.I.C.E. Academy in its 2014 Annual Report around academic instruction and unsafe conditions that invite further evaluation and improvement.

**10) Allocate funding for LEAs to have frequent training and technical assistance on school discipline and classroom management and establish ongoing discussion forums for LEAs about school discipline practices.**

During CCE's interviews with school administrators, we learned that some traditional and charter schools lack frequent training on school discipline and classroom management. There is also no formal local network that allows school administrators to regularly discuss school discipline practices. Ongoing training about school discipline and having an established formal network for school administrators to share best practices and resources would help to improve approaches to school discipline in schools.



CCE recognizes that these 10 (ten) policy recommendations are not exhaustive, and that efforts to improve school discipline and provide for more equitable systems should be ongoing. The District's dual disciplinary systems which together serve more than 38,000 students in public charter schools and nearly 48,000 students in traditional public schools represent an ever changing landscape. Equity and fairness for all DC youth should be at the heart of these two systems. Further, policies and practices should be implemented in a way that does not lead to unintended consequences, such as student disengagement, low academic achievement, school drop-out or involvement in the juvenile justice system. Schools can still hold students accountable for misbehavior without setting them up to fail and with

meaningful access to public education.

The District of Columbia courts and other justice-related systems have a large stake in student success, in assuring that all students have a fair chance at living a productive life, and in fine-tuning school disciplinary procedures to maximize students' chances to achieve these worthy goals. Recognizing these important values, CCE has undertaken this study of DC school disciplinary systems and issues this report, "Equity in School Discipline."

[1] See *School Discipline Guidance Package* available at: <http://www2.ed.gov/policy/gen/guid/school-discipline/index.html>.



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