



Advocates for Children of New York
Protecting every child's right to learn

**Testimony to be delivered to the Office of Safety and Youth Development,
New York City Department of Education**

**Re: The Summary of the Proposed Changes to the
New York City School Discipline Code 2016-2017**

**By Paulina Davis, Supervising Staff Attorney,
School Justice Project, Advocates for Children of New York
August 8, 2016**

Board of Directors

Eric F. Grossman, *President*
Jamie A. Levitt, *Vice President*
Harriet Chan King, *Secretary*
Paul D. Becker, *Treasurer*
Matt Berke
Jessica A. Davis
Adrienne Filipov
Robin L. French
Brian Friedman
Kimberley D. Harris
Caroline J. Heller
Jeffrey E. LaGueux
Maura K. Monaghan
Jonathan D. Polkes
Steven F. Reich
Raul F. Yanes

Executive Director

Kim Sweet

Deputy Director

Matthew Lenaghan

Thank you for the opportunity to comment on the summary of the proposed changes to the discipline code, the Citywide Behavioral Expectations to Support Student Learning, for the 2016-2017 school year. My name is Paulina Davis, and I am a supervising staff attorney in the School Justice Project at Advocates for Children of New York (“AFC”) where I focus on helping students with behavioral challenges get the support they need to succeed in school. AFC is a member of the Dignity in Schools Campaign New York (“DSC-NY”) and supports DSC’s testimony at today’s hearing. My testimony will focus on the proposals from the New York City Department of Education (“DOE”) concerning the ban on suspensions for students in kindergarten through 2nd grade, the requirement to document supports and interventions, the expansion of options for the length of suspensions, and the consideration of mitigating circumstances in the discipline code.



In their report issued July 21, 2016, the Mayor’s Leadership Team on School Climate and Discipline recommended that the DOE “take steps to further limit unnecessary classroom exclusion.” We support the proposed discipline code’s ban on suspension of students in kindergarten through 2nd grade as an important step in this direction. Suspending a young child does nothing to teach the child the social-emotional skills she needs for school success, and the loss of time in class can cause the child to fall behind in the acquisition of foundational academic skills like reading. National data shows that significant racial disparities in school discipline begin in the preschool years and continue through high school. By taking suspensions off the table for our youngest students, New York City can start to counter that harmful trend.

However, if we are going to make meaningful, sustained progress towards eliminating disparities based on race and disability and reducing schools’ overreliance on suspension to address behavior, we need a discipline code that requires schools to use, as well as document, social-emotional supports, restorative practices, collaborative problem solving, or other proven positive behavior interventions that address misbehavior and resolve its underlying causes. Furthermore, we need the City to make an adequate financial investment in school-wide training in these models and access to resources to implement these supports and interventions effectively.



The proposed discipline code requires schools to document supports and interventions provided prior to suspension of students for Level 1-3 infractions, but it does not appear to require schools to provide those supports and interventions in the first place. Without requiring the use of interventions prior to suspension, the proposed discipline code fails to adequately address the conditions that led to 44,636 suspensions in the 2014-2015 school year—suspensions that were served disproportionately by Black students and students with disabilities. For students with disabilities, documentation of provided support and intervention must include a copy of the student’s behavior intervention plan, if one exists, and documentation of the school’s implementation of this plan.

Furthermore, the proposed discipline code does not, but should, require the use and documentation of social-emotional supports, restorative practices, collaborative problem solving, or other proven positive behavior interventions with students when their behavior results in a Level 4 or 5 infraction. Where a student’s behavior legitimately poses a continuing danger to persons or property or ongoing threat of disruption to the academic process resulting in a Level 4 or 5 infraction and the student may be immediately suspended, the supports and interventions should be provided immediately after the start of the suspension.

To minimize negative academic and social outcomes for students who are suspended, the 2016-2017 discipline code should cap long-term suspensions at 20 days to the extent permitted by federal law, as other jurisdictions have already done.



In fact, during its last session, the New York State Assembly's Education Committee passed Assembly Bill A.8396, the Judge Judith S. Kaye Safe and Supportive School Act, which caps suspensions at 20 days in line with this national trend. A growing body of research has shown that a student's likelihood of grade retention, academic decline, arrest, and dropping out of school is increased when that student is suspended from school for even one day. We have seen these outcomes time and time again in our work. For example, we have represented students who have fallen further behind academically and who have had difficulty transitioning back to school after extended long-term suspensions. Therefore, we recommend capping suspensions at 20 days, except in instances where federal law requires a longer suspension, in which case, students should be given opportunities for early reinstatement at 20 days.

In the absence of an overall cap on suspensions, we support the proposed return of the 11-29-day suspension as an option in the code that may result in shorter suspensions for students who would otherwise be suspended for 30 days. In addition, we support the proposed addition of opportunities for early reinstatement for longer suspensions, but we recommend that students facing suspension of over 21 days have an opportunity for reinstatement at 20 days and have multiple opportunities for review thereafter in intervals of 20 days. In addition, we advocate for the elimination of the option for suspension for one year without review for reinstatement at an earlier time.



We support the proposed code's addition of "consideration of the social-emotional needs of all parties," when determining an appropriate response to misbehavior. However, we must keep in mind that suspension merely punishes a student and does not address the social and emotional needs of any students or staff. Therefore, we again urge the DOE to require the use of the interventions we have previously discussed and urge the City to invest fully in the expansion of restorative practices, collaborative problem solving, and other effective positive behavior supports.

Finally, we note that the DOE has yet to publicly release the actual language that will be included in the proposed discipline code. We ask the DOE to post the proposed 2016-2017 discipline code on its website immediately and provide adequate time for students, parents, teachers, and advocates to comment on it. Thank you, again, for the opportunity to testify.