



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 at the January 25, 2017 Hearing**

Re: The Draft New York City School Discipline Code Effective ____-2017

**By Rohini Singh, Staff Attorney,
School Justice Project, Advocates for Children of New York**

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
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 draft citywide discipline code, the Citywide Behavioral Expectations to Support Student Learning, Effective 2017. My name is Rohini Singh, and I am a 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”). My testimony will focus on the proposals from the New York City Department of Education (“DOE”) concerning the limitation on suspensions for students in kindergarten through second grade, the length of suspensions, and the use and documentation of supports and interventions.

First, we commend the positive steps the DOE has taken in the draft discipline code by minimizing the option to suspend the city’s youngest students, grades K-2, to limited cases. Suspending a young child does nothing to teach the child the social-emotional skills needed 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



Advocates for Children of New York

Protecting every child's right to learn

preschool years and continue through high school. By minimizing the use of suspensions for our youngest students, New York City will start to counter that harmful trend.

To minimize negative academic and social outcomes for students in third through twelfth grade who are suspended, the discipline code should cap long-term suspensions at 20 days to the extent permitted by federal law, as other jurisdictions have already done. The 20-day cap is in line with this national trend as well as Assembly Bill A.8396, the Judge Judith S. Kaye Safe and Supportive School Act, passed by the New York State Assembly's Education Committee last session. In our work, we have seen the negative outcomes of suspension first hand time and time again. We have represented many students who have fallen further behind academically and who have had difficulty transitioning back to school after suspensions. The 20-day cap would minimize disruption to learning and engagement in school.

In the absence of a 20-day cap, we support the return of the 11-29-day suspension as an option in the draft code, which may result in shorter suspensions for students who would otherwise be suspended for 30 days, as well as the opportunities for early reinstatement for longer suspensions. In the absence of a 20-day cap, we also support the draft code's decrease in the maximum length of suspension to 90 days for B35, B36, and B37 infractions. We recommend imposing the same 90-day, instead of



Advocates for Children of New York

Protecting every child's right to learn

one-year, maximum length of suspension for the other Level 4 infractions involving similar behaviors – namely, infractions B34, B39, and B40. It would be more consistent and in line with the Dignity in Schools Act (DASA) to align the maximum penalties for bullying, harassment and discrimination with similar conduct in other parts of the discipline code.¹

We are pleased that the draft code requires schools to provide, and document in SOHO, supports and interventions at all stages of the disciplinary process, including during suspension. The use of social-emotional supports is critical to making meaningful, sustained progress towards eliminating disparities based on race and disability and reducing schools' overreliance on suspension to address behavior. To support schools in implementing this mandate, we strongly recommend adding to the code specific information as to how and where to access these services through the DOE. Contact information for support personnel, such as school climate managers, trainers in Positive Behavioral Interventions and Supports, and parent and community engagement staff, should be provided in the code.

¹ See, e.g., NYS Educ. Law § 13(4) (“[E]very school district shall create policies, procedures and guidelines that shall include, but not be limited to: Guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students, with remedies and procedures following a *progressive model that make appropriate use of intervention, discipline and education, ... and are consistent with the district's code of conduct.*”) (emphasis added); 8 NYCRR § 100.2(1)(2)(ii)(h) (“This progressive model of student discipline shall be consistent with the other provisions of the code of conduct.”).



Advocates for Children of New York

Protecting every child's right to learn

Finally, while the draft discipline code appropriately permits the use of restorative practices among the list of supports and interventions for infractions involving bullying, intimidation or harassment, the draft code inappropriately prohibits mediation and conflict resolution. Consistent with state guidance on DASA², we recommend permitting mediation and conflict resolution on informed, written consent of the students involved. In addition, we recommend adding to the code that the name and contact information of each school's Respect for All (RFA) Liaison can be found on the school's website and requiring each school to post this information on the homepage of its website. Doing so will help the DOE comply with these requirement under DASA.³

While many changes in the DOE's draft code represent a step in the right direction, we urge the DOE to adopt our further recommended changes and continue to reform our school disciplinary system to help students stay in school and reduce the disproportionately high rates of suspension experienced by black students and students with disabilities. Thank you, again, for the opportunity to testify.

² See New York State Education Department and New York State Center for School Safety, Dignity for All Students Act, Requirements for Schools (Tool for training school employees), 21, https://ag.ny.gov/sites/default/files/dasa_training_materials_final_-_8.30.16.pdf.

³ See 8 NYCRR § 100.2(jj)(4)(vii)(a).