

DISTRICT OF COLUMBIA PUBLIC SCHOOLS

NOTICE OF FINAL RULEMAKING

The Chancellor of the District of Columbia Public Schools (DCPS), pursuant to section 103 of the District of Columbia Public Education Reform Amendment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-172(c) (2012 Repl.)), and Mayor's Order 2007-186 Municipal Regulations (DCMR) and replace it with a new Section 2405 in Subtitle B (District of Columbia Public Schools), Title 5 (Education), of the DCMR.

The purpose of this rule is to amend the language regarding the procedures for the filing, investigation, and resolution of complaints or grievances filed by students in cases of discrimination, bullying, or harassment. The amendment is necessary because DCPS must ensure that its grievance procedures contain language that satisfies requirements set forth by the U.S. Department of Education, Office of Civil Rights.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on November 29, 2013 at 60 DCR 16340. No changes have been made to the text of the proposed rulemaking. Additionally, the "Student Grievance Procedure Regulations Approval Resolution

- (c) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;
- (d) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin;
- (e) The District of Columbia Human Rights Law, Title 2, Chapter 14 of the D.C. Official Code, which prohibits discrimination on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, political affiliation, source of income, and disability; or
- (f) The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.

2405.2 The grievance procedure set forth in this section shall also apply to all grievances or complaints brought in the following instances:

- (a) Where it is alleged that any student or group of students is being denied access to an adequate educational opportunity;
- (b) Where it is alleged that the rights of students, or any individual student, are being denied or abridged;
- (c) Where it is alleged that any student or group of students is being subjected

identities of such persons;

- (6) Whether any witnesses were present, and their identities; and
 - (7) A specific factual description of the incident, including any verbal statements or physical contact.
- (g) The principal or other school official shall attempt to resolve the written grievance by beginning a formal investigation, including but not limited to conducting conferences with the grievant(s), students, parents, teachers, other school officials, and other involved parties and, when applicable, consultation with legal counsel, the Title IX Coordinator or the Section 504 Coordinator. The investigation shall also include the examination of any information submitted by the grievant and interviews with any witnesses identified by the grievant. The appropriate Instructional Superintendent shall be informed of the written grievance and investigation and may be consulted by the principal or other school official in an attempt to resolve the grievance.
- (h) The principal or other school official who investigates a written grievance shall provide a written response to the grievant and the Instructional Superintendent.
- (i) The written response shall be provided within ten (10) school days of the receipt of the written grievance; the parties should be notified if the investigation will take longer, including the reasons for the delay and the anticipated time frame.
- (j) If the grievant is not satisfied with the response of the principal, the grievant may file an appeal with the Instructional Superintendent with jurisdiction over the school which the student attends or the grievance arose. If the Instructional Superintendent issued the initial response, the grievant may file an appeal with another school official designated by the Chancellor. The appeal shall be filed within ten (10) calendar days of receipt or notice of the initial response.
- (k) The Instructional Superintendent or other designee shall attempt to resolve the grievance by reviewing the principal's investigation and findings, and conducting further investigation of the grievance, including meeting with all involved parties and consulting with legal counsel as appropriate.
- (l) The written response shall be provided within ten (10) school days of the receipt of the appeal.
- (m) If the grievant is not satisfied with the response or the Instructional Superintendent or other designee is unable to achieve an adequate

complaints should include the following information, to the extent that is known by the grievant:

- (1) The name, grade, and school attended by the student;
 - (2) The date, approximate time, and location of the incident;
 - (3) The type of bullying or harassment that was involved in the incident;
 - (4) The identity of the person(s) who committed the alleged acts of harassment;
 - (5) If the alleged harassment was directed towards other person(s), the identities of such persons;
 - (6) Whether any witnesses were present, and their identities; and
 - (7) A specific factual description of the incident, including any verbal statements or physical contact.
- (c) All complaints and information contained therein will be kept confidential to the extent provided by law.
- (d) The complaint shall be reported to the principal no later than the end of the next school day following the report of the complaint. The teacher, administrator, or counselor shall report complaints of severe or pervasive bullying or harassment no later than the end of the school day that the report of the complaint was made.
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- (2) Within ten (10) school days – the principal or designee shall complete his or her investigation and prepare a written report that includes a finding as to whether the allegations of bullying or harassment are substantiated; the parties should be notified if the investigation will take longer, including the reasons for the delay and the anticipated time frame. The investigation shall include, but not be limited to, the following matters: 1) interview with the grievant; 2) interview with the alleged victim (if not the grievant); 3) interviews with the subject(s) alleged to have committed the harassment or bullying; 4) interviews with employees and others (including students) who have knowledge of the facts alleged in the complaint (including those identified by the student who filed the complaint); and 5) review of all pertinent records (including those identified by the grievant). The report shall reflect the results of the investigation and shall be provided to all parties to the complaint. The report shall include a description of any follow up actions taken or to be taken, including any intervention or disciplinary actions (to the extent permitted by the Family Educational Rights and Privacy Act (20 U.S.C. §1232g; 34 C.F.R. §§ 99.1 *et seq.*)).
- (3) If the grievant is dissatisfied with the findings or actions contained in the report, the grievant may file a written grievance with the Instructional Superintendent with jurisdiction over the school the student attends or the location at which the grievance arose within ten (10) calendar days of the issuance of the principal's report. If such a grievance is filed, Ifol(d t)-2 nce isolpa,cee

2405.8 A copy of the Instructional Superintendent's final decision shall be sent to the Chancellor and the Chief of Schools.