



# DoDEA ADMINISTRATIVE INSTRUCTION 1347.01

## STUDENT DISCIPLINARY RULES AND PROCEDURES

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**Originating Division:** Education - Policy and Operations

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**Incorporates and cancels:** DoDEA Regulation 2051.1, "Disciplinary Rules and Procedures," April 4, 2008, as amended

**Approved by:** Thomas M. Brady, Director

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**Purpose:** This Issuance establishes policy, assigns responsibilities, and implements procedures for disciplinary action for all Department of Defense Education Activity (DoDEA) students enrolled in DoDEA schools including special rules applicable to students with disabilities covered by DoD Instruction 1342.12, DoD Manual 1342.12, and DoDEA Administrative Instruction 2500.14. This Issuance is to be reviewed biannually.

## TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION .....	6
1.1. Applicability. ....	6
1.2. Policy. ....	6
1.3. Information Collection. ....	7
SECTION 2: RESPONSIBILITIES .....	8
2.1. DoDEA Director. ....	8
2.2. DoDEA Chief Academic Officer. ....	8
2.3. DoDEA Region Director for Student Excellence. ....	9
2.4. DoDEA District Superintendent. ....	10
2.5. DoDEA District Force Protection Officer. ....	11
2.6. DoDEA Office of the General Counsel. ....	11
2.7. DoDEA School Administrator. ....	11
2.8. DoDEA Teachers and Educational Staff Members. ....	14
2.9. DoDEA Case Study Committee and DoDEA 504 Accommodation Team. ....	15
2.10. DoDEA Students. ....	15
SECTION 3: GROUNDS FOR DISCIPLINARY ACTIONS .....	16
3.1. General. ....	16
3.2. DoDEA School Bus Discipline. ....	16
3.3. Additional Guidance at the DoDEA District and School Level. ....	16
3.4. Discipline for Minor or First Offenses. ....	17
3.5. Prohibited Conduct. ....	17
3.6. Coordination with Law Enforcement Authorities. ....	19
3.7. Confiscation of Personal Property. ....	20
3.8. Portable Electronic Mobile Devices. ....	20
SECTION 4: PROCEDURES FOR IMPOSING DISCIPLINARY ACTION, INCLUDING EXCLUSION UP TO 10 CONSECUTIVE SCHOOL DAYS .....	21
4.1. DoDEA Educator Responsibilities. ....	21
4.2. DoDEA Teacher Authority to Discipline. ....	21
4.3. DoDEA School Administrator’s Authority to Suspend. ....	21
4.4. Non-Exclusionary Discipline. ....	21
a. Non-Exclusionary Disciplinary Actions. ....	21
b. Non-Exclusionary Disciplinary Procedures. ....	22
c. Appeals of Discipline Not Involving Exclusion. ....	22
4.5. Discipline Involving Exclusion up to 10 Consecutive School Days. ....	22
a. Discipline Actions Involving Exclusion up to 10 Consecutive School Days. .	22
b. Procedures for Discipline Action Involving Suspension up to 10 Consecutive Days. ....	23
c. Appeals of Discipline Action Involving Suspension up to 10 Consecutive Days. ....	23
4.6. Extra-Curricular Discipline. ....	24
SECTION 5: PROCEDURES FOR EXCLUSION OVER 10 CONSECUTIVE SCHOOL DAYS, INCLUDING EXPULSION .....	25
5.1. General. ....	25

- 5.2. Notice of Proposed Exclusion for Over 10 School Days..... 25
- 5.3. Procedures for Appointing the DoDEA School Disciplinary Committee. .... 26
- 5.4. Hearing Procedures..... 27
  - a. DoDEA School Administrator’s Role..... 27
  - b. DoDEA School Disciplinary Committee and Chairperson Duties. .... 28
- 5.5. Deciding Official. .... 28
- 5.6. First-Level Appellate Authority..... 29
- 5.7. Final Appellate Authority. .... 29
- 5.8. Other Considerations. .... 30
- SECTION 6: MODIFIED PROCEDURES FOR THE ADMINISTRATION OF DISCIPLINE OF STUDENTS WITH DISABILITIES ELIGIBLE FOR SPECIAL EDUCATION ..... 31**
  - 6.1. General..... 31
  - 6.2. Change of Placement. .... 31
  - 6.3. Notification of Change of Placement..... 31
  - 6.4. Period of Removal. .... 31
  - 6.5. Services Required During Removal..... 32
  - 6.6. Manifestation Case Study Committee Determination Required..... 33
  - 6.7. Committee Determination that Misconduct did not Result from Student's DoDEA Disability..... 34
  - 6.8. Committee Determination that Misconduct Results from DoDEA Student’s Disability..... 34
  - 6.9. Protections for DoDEA Students Not Determined Eligible for Special Education at the Time of Misconduct..... 35
    - a. Basis for Knowledge..... 35
    - b. Conditions that Apply if No Basis of Knowledge Before Misconduct. .... 35
    - c. Evaluation Requested During Pendency of Disciplinary Action. .... 36
  - 6.10. Special Education Dispute Resolution Proceedings Invoked. .... 36
  - 6.11. Referral to and Action by Law Enforcement and Judicial Authorities..... 36
    - a. Rule of Construction. .... 36
    - b. Transmittal of Records..... 36
  - 6.12. Removal from the School Bus. .... 36
  - 6.13. Sponsor/Parent/Legal Guardian Consent. .... 37
- SECTION 7: DoDEA STUDENT SCHOOL BUS BEHAVIOR MANAGEMENT POLICY ..... 38**
  - 7.1. General..... 38
  - 7.2. School Bus Discipline of DoDEA Students with Disabilities. .... 38
  - 7.3. School Bus Behavior Management Responsibilities. .... 38
    - a. DoDEA Student Responsibilities..... 38
    - b. Sponsor/Parent/Legal Guardian Responsibilities. .... 39
    - c. DoDEA School Administrator Responsibilities..... 39
    - d. DoDEA School Transportation Office Personnel Responsibilities. .... 40
    - e. DoDEA District Superintendent Responsibilities..... 41
    - f. DoDEA Region Director for Student Excellence Responsibilities. .... 41
  - 7.4. School Bus Discipline Procedures..... 42
    - a. Sponsor/Parent/Legal Guardian Involvement. .... 42
    - b. DoDEA School Bus Passes..... 42

c. DoDEA School Bus Discipline..... 42

**SECTION 8: MODIFIED PROCEDURES FOR THE ADMINISTRATION OF DISCIPLINE OF STUDENTS WITH DISABILITIES ELIGIBLE FOR 504 ACCOMMODATIONS ..... 53**

8.1. General..... 53

8.2. Change of Placement..... 53

8.3. Notification of Change of Placement..... 53

8.4. Period of Removal..... 54

8.5. Services Required During Exclusion..... 54

8.6. Manifestation Accommodation Team Determination Required..... 55

8.7. 504 Accommodation Team Determination..... 55

    a. Misconduct Did Not Result from the DoDEA Student’s Disability..... 55

    b. Misconduct Results from the DoDEA Student’s Disability..... 55

    c. Special Procedures When the Conduct is a Manifestation..... 55

8.9. Protections for DoDEA Students Not Determined Eligible for a 504 Accommodation Plan at the Time of Misconduct..... 56

    a. Basis for Knowledge..... 56

    b. Conditions..... 56

    c. Evaluation..... 57

8.10. 504 Accommodation Plan Stay Put When Dispute Resolution Proceedings Invoked..... 57

8.11. Referral to and Action by Law Enforcement and Judicial Authorities..... 57

    a. Transmittal of Records..... 57

    b. Rule of Construction..... 57

8.12. Removal from the DoDEA School Bus..... 57

8.13. Sponsor/Parent/Legal Guardian Consent..... 58

**GLOSSARY ..... 59**

G.1. Acronyms..... 59

G.2. Definitions..... 59

**REFERENCES ..... 65**

**APPENDIX ..... 66**

    Appendix 1: Internal Controls Evaluation Checklist..... 66

    Appendix 2: Summary of Changes..... 68

    Appendix 3: Manifestation Determination Worksheet..... 69

**FIGURES**

Figure 1: Example of Behavior Standards for DoDEA School Bus Students..... 45

Figure 2: Example of a Memorandum for Sponsors/Parents/Legal Guardians of DoDEA Students Riding the DoDEA School Buses..... 46

Figure 3: Example of DoDEA School Bus Infractions and Recommended Consequences..... 48

Figure 4: Example of a DoDEA School Bus Conduct Referral..... 49

Figure 5: Example of a DoDEA Student Misconduct Warning..... 50

Figure 6: Example of a Sponsor/Parent/Legal Guardian Acknowledgement of Receipt of DoDEA Student Misconduct Warning..... 51

Figure 7: Example of Removal of DoDEA School Bus Riding Privileges..... 51

Figure 8: Example of a Sponsor/Parent/Legal Guardian Acknowledgement of Receipt of  
Removal of DoDEA School Bus Riding Privileges ..... 52

## SECTION 1: GENERAL ISSUANCE INFORMATION

### 1.1. APPLICABILITY.

a. This Issuance applies to the DoDEA Headquarters Organization, the DoDEA Americas Region, the DoDEA Europe Region, the DoDEA Pacific Region, and to include all schools under the DoDEA authority, and when applicable, volunteers, students, support personnel, student teachers, contractors, and sponsors/parents/legal guardians.

b. This Issuance applies to all DoDEA students enrolled or participating in (or traveling to or from in DoDEA school provided transportation) programs or activities under DoDEA authority, including home-schooled students who use or receive auxiliary services and/or attend courses/classes/activities in DoDEA schools or settings.

c. This Issuance applies to all DoDEA students, including DoDEA students with disabilities, when consistent with the provisions of Section 6 and/or Section 8 of this Issuance and DoDEA Administrative Instruction 2510.01.

d. This Issuance does not create any rights or remedies outside of those enumerated within and may not be relied upon by any person, organization, or other entity to allege a denial of such rights or remedies.

### 1.2. POLICY.

a. Management of DoDEA student behavior is a responsibility shared by DoDEA students, sponsors/parents/legal guardians, teachers, and the military and school communities and consists of teaching and reinforcing positive DoDEA student attitudes and behaviors.

b. Discipline should be progressively, equitably and fairly administered, is sequential and preplanned, and normally occurs in a hierarchy of consequences for repeated offenses of the same behavior. Disciplinary actions not fully described in this Issuance, such as, but not limited to, verbal reprimands, conferences, detention, time out, alternative in-school placements, DoDEA school service programs, positive behavior intervention, restorative justice techniques, community service, counseling programs, and other behavior management techniques should be considered prior to resorting to more formal disciplinary actions that exclude a DoDEA student from school for a long-term suspension or expulsion as a first offense, except when a student poses an immediate threat to his or her safety or the safety of others (e.g., offenses involving firearms or other weapons, fighting or violence or the possession, use, or sale of drugs or alcohol).

c. Exclusion from a DoDEA school by placing a DoDEA student in an alternate educational setting (AES) outside of a DoDEA school, or a long-term suspension or an expulsion of a DoDEA student from a DoDEA school, are extreme disciplinary consequences normally used to modify the undesirable conduct of a DoDEA student for whom other behavior management techniques and disciplinary actions have been ineffective as evidenced by behavioral data; or when a DoDEA student poses an immediate danger to himself/herself or to others (e.g., offenses

involving firearms or other weapons, fighting or violence or the possession, use, or sale of drugs or alcohol). Removals involving DoDEA students with disabilities trigger additional responsibilities and procedures, as addressed in Sections 6 and 8 of this Issuance.

d. DoDEA leaders will notify military installation and/or local law enforcement officials when a DoDEA student:

(1) Poses a serious threat to themselves, the safety of others or to the security of the military installation.

(2) Is suspended for more than ten (10) consecutive school days.

(3) May be violating a United States or host nation law.

e. All serious incidents must be reported using the Serious Incident Reporting System and entered into the appropriate DoDEA electronic incident reporting database in accordance with DoDEA Regulation 4700.04, DoDEA Regulation 3030.01, and DoDEA Procedural Guide 5760.01-01.

f. All disciplinary action resulting in suspension or expulsion and all infractions involving sexual misconduct must be recorded in the DoDEA student record in the conduct module of the DoDEA Student Information System (SIS). In the event that the proposed disciplinary action would result in suspension or expulsion or involves an infraction involving sexual misconduct, but the DoDEA student has withdrawn from school before disciplinary proceedings are completed, the DoDEA School Administrator shall complete disciplinary proceedings and record the final disposition of the disciplinary action in the DoDEA student record in the conduct module in the DoDEA SIS.

**1.3. INFORMATION COLLECTION.** This Issuance may result in the collection of information due to its policy and procedures. Any collection of information must follow all applicable Federal, DoD, and DoDEA regulations, policies, and guidance.

## SECTION 2: RESPONSIBILITIES

### 2.1. DODEA DIRECTOR. The DoDEA Director:

a. Ensures that student discipline is administered fairly, without discrimination, and in compliance with the policies and procedures of this Issuance, DoD Instruction 1342.12, DoD Manual 1342.12, DoDEA Administrative Instruction 2500.14, and Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.

b. Reviews an annual report prepared by the DoDEA Chief Academic Officer. The annual report will include data to determine whether significant disproportionality based on sex, race, ethnicity, and disability status (including whether a student has an Individual Education Program (IEP) or a 504 Accommodation Plan) exists with respect to the incidence, duration and type of exclusionary discipline. The annual report may be used to make appropriate policy adjustments based on student discipline trends in DoDEA schools.

c. Serves as the final appellate review authority in cases involving exclusion for more than ten (10) consecutive school days.

d. Delegates to the DoDEA Region Directors for Student Excellence, District Superintendents, and School Administrators the authority to exclude DoDEA students in accordance with the policies and procedures prescribed in this Issuance and to ensure that any disciplinary decision made concerning a DoDEA student's disciplinary action is:

(1) Supported by a preponderance of the evidence contained in the record and imposed after affording the DoDEA student, or his or her sponsor/parent/legal guardian, the opportunity to explain the alleged misconduct.

(2) Present evidence that supports the DoDEA student's explanation that the DoDEA student has not committed an act or that there were extenuating or mitigating circumstances, as set forth in Section 3 of this Issuance.

(3) Delivered promptly to the DoDEA student and his sponsor/parent/legal guardian, as required by this Issuance.

### 2.2. DODEA CHIEF ACADEMIC OFFICER. The DoDEA Chief Academic Officer:

a. Ensures DoDEA student discipline is administered fairly, without discrimination, and in compliance with the policies and procedures of this Issuance, DoD Instruction 1342.12, DoD Manual 1342.12, DoDEA Administrative Instruction 2500.14, and Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.

b. Reviews regional annual disciplinary reports including all elements outlined in Section 2.1.b. of this Issuance submitted by Regional Directors for Student Excellence and submits a consolidated annual report to the DoDEA Director, no later than 30 July each year.



**2.3. DODEA REGION DIRECTOR FOR STUDENT EXCELLENCE.** The DoDEA Region Director for Student Excellence (DSE):

- a. Ensure compliance with the provisions of this Issuance.
- b. Consolidate district annual discipline reports provided by the District Superintendents and submit a consolidated annual discipline report to the DoDEA Chief Academic Officer, no later than 15 July each year. The report should be reviewed to ensure accurate data related to DoDEA student exclusionary discipline issued under their cognizance and the data elements in Section 2.1.b. of this Issuance.
- c. Review district level annual discipline reports to determine the existence of systemic disproportionate discipline practices based on race, ethnicity, gender or disability and take appropriate action.
- d. Exercise first-level appellate authority on appeals from disciplinary orders issued by the District Superintendents adjudicating an exclusion from school in excess of ten (10) consecutive days, including expulsion.
- e. Exercise general supervisory control over the administration of DoDEA school discipline within their Region to ensure:
  - (1) Disciplinary procedures are administered consistently with this Issuance.
  - (2) Timelines specified in this Issuance are followed.
  - (3) Administrative proceedings in disciplinary matters are carried out with efficiency and impartiality in accordance with DoD Instruction 1342.12, DoDEA Administrative Instruction 2500.14, and Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.
  - (4) Disciplinary consequences are dispensed with reasonable consistency for similar offenses and circumstances.
  - (5) Disciplinary information is maintained in compliance with DoD Instruction 5400.11.
  - (6) A review and trend analysis are conducted on the exclusionary discipline data by DoDEA school and district to identify trends, training needs, and other interventions.
- f. Hold DoDEA District Superintendents accountable for adherence to the standards, policies, and procedures in accordance with this Issuance, DoD Instruction 1342.12, DoD Manual 1342.12, DoDEA Administrative Instruction 2500.14, and Volumes 1 and 2 of DoDEA Administrative Instruction 1443.01.
- g. Coordinate with DoDEA District Superintendents to ensure that Geographic Combatant Commanders and the DoDEA community stakeholders are informed and understand the educational benefits of the policies and procedures in this Issuance.

h. Enlist broad community support for, and cooperation with, DoDEA school authorities in the exercise of DoDEA school-related disciplinary authority consistent with this Issuance.

i. Coordinate any implementing guidance with the DoDEA Office of the General Counsel prior to Issuance.

**2.4. DODEA DISTRICT SUPERINTENDENT.** The DoDEA District Superintendent shall:

a. Carry out or designate a DoDEA Community Superintendent to act on behalf of the DoDEA District Superintendent.

b. Serve as the first-level appellate authority over all appeals from decisions made by DoDEA School Administrator (i.e., involving an exclusionary discipline of ten (10) consecutive school days or less).

c. Serve as the decision authority in all cases referred to a disciplinary committee (i.e., involving exclusionary discipline over ten (10) consecutive days, including expulsion) and issue the written decisions that grant or deny requests of the DoDEA school or the accused DoDEA student or his or her representative (e.g., requests for additional time to prepare the case or for other accommodations).

d. Forward the entire case file to the DoDEA Region Director for Student Excellence if the District Superintendent's decision is appealed. The case file shall include the following:

(1) The recording or transcript of the hearing.

(2) The written notice of proposed disciplinary action.

(3) Any written response or rebuttal presented on behalf of the DoDEA student.

(4) All documentary and/or physical evidence presented at the hearing.

(5) The written recommendation of the DoDEA school disciplinary committee including its findings of fact and recommendations.

(6) Any other documentation or correspondence related to the proposed disciplinary action and DoDEA school disciplinary hearing.

e. Advise DoDEA School Administrators in the appointment and convening of a DoDEA school disciplinary committee to consider recommendations that a DoDEA student be excluded from school for more than ten (10) consecutive school days.

f. Exercise general supervisory control over the administration of DoDEA school discipline within the District.

g. Coordinate with local military commanders, where appropriate, in the exercise of DoDEA school bus discipline and ensure that procedures described in this Issuance, including those that relate specifically to the discipline of DoDEA students with disabilities, are consistently applied.

- h. Work with local installation commanders and the DoDEA community stakeholders to inform them of the educational benefits of DoDEA's policies and procedures. Enlist broad DoDEA community support for, and cooperation with, DoDEA school authorities in the sharing of responsibility for exercising DoDEA school bus and other school-related disciplinary authority consistent with this Issuance.
- i. Provide to the DoDEA Region Director for Student Excellence, by 30 June of each year, the annual disciplinary report of all student exclusionary discipline issued under their cognizance reflecting the data elements required by Section 2.1.b. of this Issuance and:
  - (1) Review DoDEA school-level annual discipline data to identify if trends exist in disproportionate discipline procedures based on race, ethnicity, gender or disability.
  - (2) Approve and ensure the implementation of DoDEA school improvement plans to address disproportionate discipline practices.
- j. Ensure strict and sound oversight and enforcement of the safety of DoDEA students and school employees and take the appropriate actions necessary as outlined in this Issuance.

**2.5. DODEA DISTRICT FORCE PROTECTION OFFICER.** The DoDEA District Force Protection Officer will:

- a. Respond to threats or patterns of behavior that impact force protection conditions or involve law enforcement.
- b. Make necessary adjustments or recommendations to enhance protective measures in conjunction with the DoDEA School Administrator.

**2.6. DODEA OFFICE OF THE GENERAL COUNSEL.** The DoDEA Office of the General Counsel will:

- a. Review for legal sufficiency all proposed decisions on appeals that involve a DoDEA student's exclusion for more than ten (10) consecutive school days.
- b. Provide legal advice and assistance to DoDEA officials in any stage of a disciplinary proceeding.
- c. Advise the DoDEA Director, DoDEA Regional DSEs, DoDEA District Superintendents, and DoDEA School Administrators on matters affecting the fairness, impartiality, consistency of proceedings, and adherence to the policies of this Issuance.

**2.7. DODEA SCHOOL ADMINISTRATOR.** The DoDEA School Administrator will:

- a. Dispense and exercise general supervisory control over the administration of DoDEA student discipline.

b. Ensure strict and sound oversight and enforcement of the safety of the DoDEA students and school employees and take appropriate actions necessary as outlined in this Issuance.

c. Issue a decision in any case where the DoDEA School Administrator has conducted a conference and determined that:

(1) Exclusionary discipline from a DoDEA school for ten (10) consecutive days or fewer is appropriate, in accordance with the procedures in Section 4 of this Issuance.

(2) The DoDEA student accused of misconduct was afforded a sufficient opportunity to establish that he or she did not commit the misconduct and/or to identify extenuating or mitigating circumstances before a disciplinary consequence was rendered.

d. Consult with the DoDEA District Superintendent and appoint appropriate members to a DoDEA school disciplinary committee and convene with them. The DoDEA school disciplinary committee shall conduct a hearing and make recommendations to the DoDEA District Superintendent in any disciplinary action in which the DoDEA School Administrator recommends that a DoDEA student be excluded for more than ten (10) consecutive school days, in accordance with the procedures of Section 5 of this Issuance.

e. Appear and represent, or designate an appropriate DoDEA staff member (i.e., lead DoDEA teacher/acting DoDEA School Administrator) to appear and represent, the interests of the DoDEA school in proceedings before a DoDEA school disciplinary committee.

f. Forward the case file to the DoDEA District Superintendent in all cases in which:

(1) A DoDEA school disciplinary committee makes a recommendation concerning discipline.

(2) The DoDEA School Administrator's disciplinary decision is appealed to the DoDEA District Superintendent.

g. Engage the DoDEA faculty, sponsors/parents/legal guardians, and DoDEA students in the development of a comprehensive DoDEA school disciplinary program consistent with this Issuance. The DoDEA school disciplinary program needs to include pre-planned, reflective response strategies that are specifically defined, and ensure that the disciplinary consequence is proportional to the seriousness of the inappropriate behavior.

h. Work with local military installation commanders and the DoDEA community stakeholders to inform them of DoDEA's policies and procedures. Enlist broad DoDEA community support for, and cooperation with, DoDEA school authorities in the sharing of responsibility for exercising DoDEA school bus and other school-related disciplinary authority consistent with this Issuance.

i. Ensure the DoDEA student and the sponsor/parent/legal guardian (even if the DoDEA student is emancipated) are:

(1) Informed of charges against the DoDEA student and the proposed disciplinary action.

(2) Furnished a copy of this Issuance in cases involving possible suspension or expulsion.

j. Ensure that personnel appointed to the DoDEA school disciplinary committee are DoD employees or volunteers who have signed a volunteer agreement in accordance with DoD Instruction 1100.21. It is important that the DoDEA school disciplinary committee members understand their responsibilities in accordance with DoD Instruction 5400.11 and that the underlying personal information developed and retained in DoDEA student files concerning any DoDEA student disciplinary action is maintained, used, or disseminated in full compliance with Activity recordkeeping requirements.

k. Explain to the DoDEA student and the sponsor/parent/legal guardian the terms and conditions of any disciplinary action (i.e., the date upon which the DoDEA student is eligible to return to the DoDEA school, the DoDEA student's obligation to continue education during any period of exclusion, etc.).

l. Ensure that DoDEA student records accurately reflect the final disposition of disciplinary actions in accordance with DoD Instruction 5400.11. Records must be maintained in the DoDEA SIS Record for any exclusionary discipline (to include suspension, in or out of DoDEA school, expulsion, or disciplinary removal to an alternate educational setting), as well as any student-on-student infraction of a sexual nature (to include sexual harassment and sexual assault).

m. Provide to the DoDEA District Superintendent, by 15 June of each year, an annual disciplinary report which reflects all required exclusionary data specific to the DoDEA school in accordance with Section 2.1.b. of this Issuance. Based on the report:

(1) Analyze annual report data elements to determine whether disproportionate discipline practices based on race, ethnicity, gender, or disability exist within a DoDEA school.

(2) Develop and implement an improvement plan to address disproportionality in the DoDEA school discipline procedures to ensure equity and to protect the civil rights of students. The plan should be submitted to the DoDEA District Superintendent for review and approval.

n. Provide report for local review and annual DoDEA teacher training to review positive behavior interventions and address any implicit bias to improve conditions for DoDEA student learning.

o. Convene the Case Study Committee (CSC) or 504 Accommodation Team, made up of DoDEA school personnel, for the discipline of DoDEA students with disabilities, as required, and in accordance with this Issuance, DoD Instruction 1342.12, DoD Manual 1342.12, and DoDEA Administrative Instruction 2500.14.

p. Provide or arrange opportunity for all dependent DoDEA students who have been excluded from a DoDEA school for more than ten (10) consecutive days in a school year to obtain academic counseling at the DoDEA school at which the DoDEA student would be eligible to attend but for the disciplinary exclusion. Identify an appropriate alternative educational setting, when appropriate. The CSC/504 Accommodation Team determines alternate educational

setting and services during long term removal for DoDEA students with disabilities whose discipline is processed in accordance with Sections 6 and 8 of this Issuance.

q. Except for the mandatory reporting requirements of DoDEA Administrative Instruction 1443.02 for alleged sexual misconduct and any incident involving a DoDEA student that threatens the safety of others as outlined in Section 3.6.a.(1) of this Issuance, make judgement about the seriousness of an incident that occurs at a DoDEA school during operational hours and/or school-related activities (e.g., after DoDEA school, field trips, bus, etc.), determine if the incident needs to be reported to law enforcement, and coordinate with other DoDEA officials, as appropriate.

(1) Have sole disciplinary authority for resolving all incidents that can be dealt with under normal DoDEA school discipline procedures. Report the incident for law enforcement investigation if the incident proves more serious or complex than initially reported.

(2) Shall notify military installation and/or local law enforcement officials:

(a) When a DoDEA student poses a serious threat to themselves, the safety of others or to the security of the military installation.

(b) When a DoDEA student is subject to disciplinary exclusion for over ten (10) days.

(c) When a DoDEA student may be violating United States or host nation law.

r. Coordinate with the DoDEA District Force Protection Officer to determine if additional protective measures are necessary if a DoDEA student is continuing to exhibit a pattern of violence, poses an immediate threat to themselves, or the safety of others.

s. Have primary disciplinary authority to impose disciplinary consequences, as authorized under this Issuance, for incidents of DoDEA student misconduct occurring at, during, or in the course of DoDEA school-sponsored events, programs, and activities, whether on or off a DoDEA facility, such as extra-curricular sporting or academic competitions.

**2.8. DODEA TEACHERS AND EDUCATIONAL STAFF MEMBERS.** The DoDEA teachers and educational staff members:

a. Utilize the range of behavior management techniques in accordance with DoDEA Administrative Instruction 2510.01, including positive behavior interventions (e.g., re-teach expected behavior with required practice, peer mediation, behavior contract, conflict resolution with DoDEA school counselor, etc.) and the independent exercise of minor disciplinary actions for minor DoDEA student misconduct. DoDEA teachers and other educational staff members (e.g., DoDEA school counselors and school nurses), with the consent of the DoDEA School Administrator, may recommend in-school suspension when appropriate based upon the needs of the DoDEA student and his or her disruptive behavior.

b. Ensure that, in cases where DoDEA teachers or educational staff members utilize the range of behavior management techniques cited in Section 2.8.a. of this Issuance, the DoDEA student knows the nature of his or her misconduct and understands why the disciplinary action is being imposed. The DoDEA teacher or educational staff member administering discipline should provide an opportunity for the DoDEA student facing a disciplinary action to express his or her reasons for the alleged misconduct and/or possible mitigating circumstances.

**2.9. DODEA CASE STUDY COMMITTEE AND DODEA 504 ACCOMMODATION TEAM.** The DoDEA CSC or 504 Accommodation Teams:

a. Determine whether conduct committed by a DoDEA student with disabilities that violates DoDEA school rules and regulations (and that might result in a suspension or expulsion) is part of a pattern of misconduct and/or was a manifestation of the DoDEA student's disability, as required under Sections 6 and 8 of this Issuance.

b. Review the DoDEA student's IEP/504 Accommodation Plan and educational needs, including behavioral intervention, modify the IEP/504 Accommodation Plan and behavior intervention plan, and/or consider additional assessments.

c. Meet additional requirements for DoDEA students with disabilities related to discipline as outlined in Sections 6 and 8, respectively, of this Issuance.

**2.10. DODEA STUDENTS.** The DoDEA students:

a. Shall comply with all DoDEA student disciplinary rules, regulations, and procedures.

b. Shall be responsible for providing information and/or evidence in defense or mitigation of the charges against the DoDEA student and complying with the timelines required by this Issuance.

c. May appeal a disciplinary decision if disagreeing with the decision.

d. May waive their right to a hearing before the DoDEA school disciplinary committee.

e. Are required to pro-actively report the "prohibited conduct" or others involvement in prohibited conduct in accordance with Section 3.5. of this Issuance.

## SECTION 3: GROUNDS FOR DISCIPLINARY ACTIONS

**3.1. GENERAL.** This Section describes categories of DoDEA student conduct warranting disciplinary action or consequences and provides guidance on the seriousness of offenses. It is intended to allow DoDEA School Administrators to use their best judgement in assessing the seriousness of offenses for purposes of determining the appropriate consequence. This Issuance does not list every offense, nor does it dictate the seriousness of any particular offense. However, it does describe in sufficient specificity the types of student conduct that may result in disciplinary consequences. Disciplinary sanctions may be imposed for DoDEA student conduct that occurs:

- a. While on DoDEA school property.
- b. While at the bus stop and en route between home and DoDEA school and/or school activities.
- c. While in United States Government-owned or DoDEA-contracted vehicles for the transport of DoDEA students.
- d. During the lunch period on a DoDEA school day, whether on or off campus.
- e. During or while going to or from all DoDEA school-sponsored or school-supervised events and activities that affect the missions or operations of the DoDEA school or District, including field trips, sporting events, stadium assemblies, and evening DoDEA school-related activities.
- f. When the good order, safety, or welfare of the DoDEA school, students, or staff is affected as a result of out-of-school actions. For out-of-school actions that involve First Amendment rights, there must be a clear connection to a substantial disruption, or the likelihood of a substantial disruption, to the DoDEA school environment.

**3.2. DODEA SCHOOL BUS DISCIPLINE.** Rules of DoDEA student behavior and disciplinary procedures prescribed in Section 7 of this Issuance are applicable to DoDEA students at the bus stop and en route by DoD-sponsored school buses between home and a DoDEA school and/or school-sponsored events and activities. A DoDEA School Administrator has the discretion to process disciplinary actions for DoDEA school bus infractions solely in accordance with Section 7 of this Issuance or as a part of DoDEA school discipline generally. Disciplinary actions that affect the placement of eligible DoDEA students with disabilities must be processed under the disciplinary procedures for DoDEA students with disabilities in accordance with Section 6 and/or Section 8 of this Issuance.

**3.3. ADDITIONAL GUIDANCE AT THE DODEA DISTRICT AND SCHOOL LEVEL.** In addition to this Issuance, individual DoDEA schools, DoDEA Districts or DoDEA Regions may promulgate more restrictive DoDEA student handbooks which implement the procedures of this Issuance subject to prior coordination with DoDEA Region Director for Student Excellence



and Office of General Counsel (OGC) in accordance with Section 2.3.i. of this Issuance. Nothing in any additional guidance or procedure promulgated at the DoDEA region, district, or school level shall supersede the provisions of this Issuance. The policies and procedures of this Issuance shall take precedence over any conflicting DoDEA region, district, or school guidance or procedure concerning DoDEA student discipline.

**3.4. DISCIPLINE FOR MINOR OR FIRST OFFENSES.** A DoDEA student may be disciplined for relatively minor offenses or first offenses not presenting an immediate threat of danger to self or others through the use of written or oral reprimands or notice to the sponsor/parent/legal guardian, time out, DoDEA teacher/student/conferences, suspension of DoDEA school or extracurricular privileges, and by any other DoDEA teacher intervention deemed by the DoDEA teacher or DoDEA School Administrator to be appropriate. Minor offenses include any conduct that is not conducive to the good order and discipline of a DoDEA school. Examples of conduct for which minor discipline may be appropriate include, but are not limited to, tardiness, unexcused absence, chewing gum, spitting or eating food in class, running or horseplay in the halls or classrooms, use of offensive language, or disrupting class when the DoDEA teacher determines that such conduct is inappropriate to the classroom activity. Nothing in this paragraph precludes the imposition of more serious disciplinary actions when a DoDEA student engages in repeated or multiple acts of misconduct and the DoDEA teacher or DoDEA School Administrator have determined that the nature of the offense, in the context of all circumstances, warrants a more severe consequence than contemplated by this Section. Grade (score) reduction as a disciplinary action is prohibited.

**3.5. PROHIBITED CONDUCT.** A DoDEA student may be disciplined, to include exclusion from a DoDEA school in appropriate circumstances when a preponderance of the evidence demonstrates that the DoDEA student has engaged in any of the following acts of misconduct:

a. Committing an act of discriminatory harassment or other act of discrimination, including sexual harassment or sexual assault, against another DoDEA student, staff member, volunteer, or any participant in a DoDEA-conducted or sponsored program or activity (including students from non-DoDEA schools and other visitors).

b. Causing, attempting to cause, or threatening to cause physical injury to another person or using or threatening to use physical force against any person, including physical force that causes serious bodily injury to a person, as defined by Section 1365 of Title 18, United States Code, including communicating threats of mass violence at a DoDEA school facility or school-related event.

c. Possessing, using, or transferring to another person any weapon, including but not limited to dangerous weapon as defined by Section 930 of Title 18, United States Code, (e.g., firearm, knife, explosive, incendiary device, or dangerous object) at the school or at a school-sponsored activity. A minimum one-calendar year expulsion recommendation is required for the possession of firearms in accordance with Section 7961 of Title 20, United States Code, also known as “The Gun Free Schools Act.”

- d. Possessing, using, distributing, or the attempted possession, use, or distribution of alcoholic beverages.
- e. Possessing, using, distributing, or the attempted possession, use or distribution of tobacco or any product containing tobacco or designed for nicotine products, including, but not limited to, cigarettes, vaping and/or e-cigarettes, cigars, miniature cigars, clove, smokeless tobacco, snuff, chew packets, and betel nut.
- f. Possessing, using, distributing, or the attempted possession, use or distribution of any illegal/controlled substance, as defined in the Glossary Section of this Issuance. A mandatory expulsion recommendation is required for a second offense.
- g. Offering, arranging, or negotiating to sell drug paraphernalia or the unlawful use or possession of drug paraphernalia.
- h. Robbing or extorting or attempting to rob or extort.
- i. Damaging or vandalizing school, U.S. Government, contractor, or private property.
- j. Stealing, wrongfully appropriating, or attempting to steal or wrongfully appropriate, or knowingly receiving stolen DoDEA school, U.S. Government, contractor, or private property.
- k. Committing any objectively offensive lewd, indecent, or obscene act, or engaging in habitual profanity or vulgarity.
- l. Disrupting DoDEA school activities or otherwise willfully defying the valid authority of DoDEA supervisors, teachers, DoDEA School Administrators, DoDEA school officials, or other DoDEA school personnel engaged in the performance of their duties. This provision includes not only horseplay and other forms of disorderly conduct, but also includes lying to and/or making false statements to DoDEA school personnel and/or the violation of other rules and guidance established for an orderly educational atmosphere.
- m. Failing to leave the DoDEA school, the DoDEA school grounds, the DoDEA school bus, or otherwise failing to follow the instructions/directions of the DoDEA School Administrator or staff member in charge after being told to do so or is otherwise not authorized to be present in such areas (e.g., expelled or suspended).
- n. Gambling in any form.
- o. Fighting or otherwise engaging in conduct that endangers the well-being of a DoDEA student or others.
- p. Bullying (including cyber bullying).
- q. Possession or use of portable communications devices when contrary to DoDEA school policy (e.g., cellular, mobile, or smart phones, personal computers; other similar devices capable of receiving or transmitting audio, video, picture, or text message; or portable electronic devices, including: cameras, electronic games, tablets or similar devices). Such equipment and devices

are subject to confiscation by DoDEA school authorities if in violation of DoDEA school or military installation policies.

r. Engaging in, or attempting to engage in, acts of arson, making a threat to bomb, burn, shoot up, or destroy in any manner a DoDEA school building, DoDEA school personnel and/or DoDEA school property, or intentionally making a false report of a bomb threat, weapons violation or fire (e.g., making a terrorist or bomb threat, pulling a fire alarm, etc.).

s. Forging, cheating, or plagiarizing the work of others.

t. Possessing or using fireworks or other explosive devices.

u. Violating attendance regulations or policies (e.g., truancy).

v. Violating the terms and conditions of the DoDEA Form 6600.1-F2, "DoDEA Student Computer and Internet Access Agreement for Students." Using illegal or unauthorized means to gain access to computers, software telecommunications, and related technologies of others. Engaging in any willful act that causes physical or financial damage or otherwise disrupts information technology. Using a computer or communications device to communicate, threaten, harass, or send indecent messages; or by downloading obscene or pornographic materials.

w. Violating any law, rule, regulation, or policy of the military installation or the DoDEA school.

x. Committing an act of sexual harassment, sexual assault, other related abusive misconduct, or any generally prohibited sexual behavior in violation of DoDEA Administrative Instruction 1443.02.

y. Failing to report or otherwise be involved in the above-described acts.

### **3.6. COORDINATION WITH LAW ENFORCEMENT AUTHORITIES.**

a. DoDEA School Administrator must coordinate with the military installation law enforcement to determine how incidents occurring on DoDEA school premises are investigated by law enforcement personnel. DoDEA School Administrator must:

(1) Inform law enforcement officials of any incident involving a DoDEA student that threatens the safety of others, exhibits or has a continued pattern of threatening behavior (e.g., offenses involving firearms or other weapons, fighting or violence if medical attention is required, any form of sexual assault, arson, gang activity; bomb threat or hoax, aggravated assault, or the possession, use, or sale of drugs).

(2) Ensure notification is made to the DoDEA District Force Protection Officer of any incident or pattern of incidents that meets the criteria outlined in (1) above to ensure the DoDEA school receives any additional support needed.

(3) Work with law enforcement to minimize the need for interviews of DoDEA students at school. If law enforcement insists an interview in a DoDEA school is needed:

(a) Obtain sponsor/parent/legal guardian notification/consent unless doing so would risk the investigation (e.g., child abuse investigation of a sponsor/parent/legal guardian).

(b) Request interview be conducted after the DoDEA school day ends.

(c) When an interview must be conducted by law enforcement of a DoDEA student at a DoDEA school, and without a sponsor/parent/legal guardian present, a DoDEA School Administrator or designee will be present and serve as a witness to the interview.

b. Provide a DoDEA student record when the record is requested in writing and within the scope of an authorized law enforcement activity investigation in accordance with DoD Instruction 5400.11.

**3.7. CONFISCATION OF PERSONAL PROPERTY.** DoDEA School officials may immediately confiscate any personal property belonging to, or in the possession of, any DoDEA student if the possession or use of that property is inconsistent with the conduct required by this Issuance or good order and discipline. After a DoDEA School official has confiscated personal property belonging to a DoDEA student, the DoDEA School official will ensure the confiscated property is appropriately secured. Unless possession of the item is illegal or dangerous, the confiscating DoDEA School official will return the personal property to the rightful owner or the DoDEA student's sponsor/parent/legal guardian as soon as is practicable and safe or issue a receipt for its retention until such time as it may be returned. Confiscation is not considered a disciplinary action, but it is accomplished to preserve health and safety and/or to provide evidence incidental to the exercise of disciplinary action.

**3.8. PORTABLE ELECTRONIC MOBILE DEVICES.** The search, confiscation, and return of Personal Electronic Mobile Devices including cell phones, digital cameras, tablets, personal laptop computers, or other devices used by an individual to maintain digital information is addressed in detail in DoDEA Administrative Instruction 1353.01.

## **SECTION 4: PROCEDURES FOR IMPOSING DISCIPLINARY ACTION, INCLUDING EXCLUSION UP TO 10 CONSECUTIVE SCHOOL DAYS**

**4.1. DODEA EDUCATOR RESPONSIBILITIES.** DoDEA School Administrators, teachers, and other educational staff have the responsibility to exercise disciplinary control over their classrooms and the DoDEA student(s) under their supervision in a fair and impartial manner in accordance with the procedures specified in this Issuance. They are authorized to enforce discipline by teaching students that consequences flow from inappropriate behavior.

**4.2. DODEA TEACHER AUTHORITY TO DISCIPLINE.** Actions available to a DoDEA teacher include, but are not limited to, a continuum of classroom management techniques and positive behavior interventions. This may include de-escalation techniques, instructional strategies, environmental supports, and other behavior interventions to effectively and appropriately impact targeted DoDEA student behavior that is reasonable and does not involve removal or otherwise violate this Issuance or DoDEA Administrative Instruction 2510.01.

a. In accordance with the requirements and procedures outlined in DoDEA Administrative Instruction 2510.01, a DoDEA teacher may require a DoDEA student to leave the classroom and go to the DoDEA School Administrator's office or another setting in order to preserve discipline while the matter is reported to the DoDEA School Administrator.

b. Exclusion of a DoDEA student from class or DoDEA school for a period up to ten (10) consecutive school days may be recommended by the DoDEA teacher, but only the DoDEA School Administrator or designee may initiate or impose a disciplinary action resulting in such an exclusion.

**4.3. DODEA SCHOOL ADMINISTRATOR'S AUTHORITY TO SUSPEND.** The DoDEA School Administrator may suspend a DoDEA student for any of the reasons set forth in Section 3 of this Issuance for no more than ten (10) consecutive school days. The DoDEA School Administrator may revoke or suspend a DoDEA student's privilege of participating in any DoDEA school-related activities or extracurricular event as outlined in 4.7. of this Issuance. For any DoDEA student with a disability, the provisions of Section 6 or Section 8 of this issuance apply.

### **4.4. NON-EXCLUSIONARY DISCIPLINE.**

**a. Non-Exclusionary Disciplinary Actions.** DoDEA School Administrators and teachers are responsible to exercise disciplinary control over DoDEA student(s) under their supervision in a fair and impartial manner in accordance with the procedures specified in this Issuance. Actions available for non-exclusionary discipline of a DoDEA student include a continuum of classroom management techniques and positive behavior interventions, including but not limited to de-escalation techniques, instructional strategies, environmental supports, and any other reasonable

practice that does not involve removal or otherwise violate this Issuance or DoDEA Administrative Instruction 2510.01.

**b. Non-Exclusionary Disciplinary Procedures.** When exercising discipline that does not involve exclusion under this Section, the DoDEA School Administrator or teacher must conduct an informal conference with the DoDEA student. The purpose of the conference is to ensure that the proper DoDEA student is being disciplined, the alleged infractions actually occurred, the DoDEA student has the opportunity to give his or her side of the incident, and the DoDEA student knows why he or she is being disciplined. This informal conference generally will occur immediately upon notifying the DoDEA student that he or she is being considered for discipline. All necessary fact-gathering will be accomplished immediately, and any factual disputes will be decided using the preponderance of the evidence standard defined within this Issuance.

**c. Appeals of Discipline Not Involving Exclusion.** Appeals of disciplinary actions imposed by a DoDEA teacher or a DoDEA School Administrator that do not involve exclusion are resolved through an informal appeal conference between the sponsor/parent/legal guardian and the DoDEA teacher or DoDEA School Administrator.

(1) The request for a conference must be submitted orally or in writing, by the sponsor/parent/legal guardian, to the DoDEA teacher or DoDEA School Administrator, whoever imposed the discipline, within five (5) calendar days of the imposition of the discipline.

(2) The DoDEA teacher or DoDEA School Administrator shall promptly hold a conference with the sponsor/parent/legal guardian.

(3) The DoDEA teacher or DoDEA School Administrator shall issue a decision, oral or written, within ten (10) calendar days of holding a conference.

(4) The sponsor/parent/legal guardian may request a further conference with the DoDEA School Administrator, if the conference is held by the DoDEA teacher without the DoDEA School Administrator. The DoDEA School Administrator is the final appellate authority for discipline not involving exclusion from the school whether the discipline is imposed by the DoDEA School Administrator or a DoDEA teacher.

(5) The DoDEA school need not defer the imposition of any disciplinary consequence pending the appeal, particularly when the discipline is being taken to protect DoDEA students or to prevent disruption in the classroom.

#### **4.5. DISCIPLINE INVOLVING EXCLUSION UP TO 10 CONSECUTIVE SCHOOL DAYS.**

**a. Discipline Actions Involving Exclusion up to 10 Consecutive School Days.** The DoDEA School Administrator is responsible for disciplinary action that excludes DoDEA students from the DoDEA school, classroom, school activity or school program. A DoDEA School Administrator may exclude a DoDEA student from school, a classroom, or other educational setting for any of the reasons set forth in Section 3 of this Issuance, for no more than ten (10) consecutive school days in accordance with the procedures outlined in this Section. Any

exclusionary discipline shall be recorded in the discipline module in the DoDEA SIS. For any DoDEA student with a disability, the provisions of Section 6 or Section 8 of this Issuance apply and the DoDEA School Administrator must determine if the proposed action makes the cumulative total number of days suspended in the school year exceed ten (10).

**b. Procedures for Discipline Action Involving Suspension up to 10 Consecutive Days.**

When exercising discipline through which a DoDEA student is suspended up to ten (10) consecutive school days under this Section, the DoDEA School Administrator or designee shall, regardless of the age of the DoDEA student:

(1) Contact the DoDEA student's sponsor/parent/legal guardian in person or by telephone and advise the sponsor/parent/legal guardian of the suspension.

(2) Notify the DoDEA student's sponsor/parent/legal guardian in writing of the suspension by sending a copy of the notice home with the DoDEA student and by mailing or e-mailing the sponsor/parent/legal guardian a copy of same, generally within one (1) school day of the decision. If e-mail is used as the notification method, the DoDEA School Administrator or designee shall call the DoDEA student's sponsor/parent/legal guardian to ensure he or she knows that an e-mail notice was sent. The notice shall include:

(a) A statement of facts leading to the decision to suspend the DoDEA student.

(b) A statement that the DoDEA student is to remain away from DoDEA school, school grounds, and/or activities under the jurisdiction of the school during the period of suspension unless given written authorization by the DoDEA School Administrator to be present.

(c) The date and time the student is authorized to return to the DoDEA school.

(d) A request that the sponsor/parent/legal guardian attend a conference with DoDEA school officials regarding the DoDEA student's behavior.

(e) Notice of the appeal procedures by which the DoDEA student may appeal the suspension.

**c. Appeals of Discipline Action Involving Suspension up to 10 Consecutive Days.**

Appeals of disciplinary actions involving suspension up to ten (10) days must be made in writing to the DoDEA District Superintendent within five (5) school days of the receipt of the notification of formal discipline discussed in accordance with Section 4.6.b.(2) of this Issuance. The sponsor/parent/legal guardian or DoDEA student (18 years of age or emancipated) must simultaneously provide a copy of his or her appeal to the DoDEA School Administrator who imposed the suspension.

(1) The DoDEA student or the sponsor/parent/legal guardian or the DoDEA school may present new or previously undiscovered documentary evidence as long as the document is provided to the other party.

(2) The DoDEA School Administrator shall forward a copy of the record developed in the disciplinary proceedings to the DoDEA District Superintendent upon notice an appeal has been filed.

(3) The appeal must describe in full detail why the discipline is being challenged.

(4) The appeal to the DoDEA District Superintendent is a paper review, affording no party the right to be present or to make oral arguments.

(5) The DoDEA District Superintendent will issue the DoDEA student or the sponsor/parent/legal guardian a final written decision on the appeal. No further appeal is authorized.

(6) The DoDEA school need not defer the imposition of any disciplinary consequence pending the appeal, particularly when the discipline is being taken to protect DoDEA students or to prevent disruption in the classroom.

**4.6. EXTRA-CURRICULAR DISCIPLINE.** The DoDEA School Administrator is responsible for administering any discipline affecting a DoDEA student's involvement or participation in extra-curricular, co-curricular, or other DoDEA school-sponsored program or activity. The DoDEA School Administrator may specifically limit, restrict or suspend a DoDEA student's involvement or participation in such extra-curricular or co-curricular activities and events by following the procedures for imposing exclusionary discipline in Section 4.5. in this Issuance.



## **SECTION 5: PROCEDURES FOR EXCLUSION OVER 10 CONSECUTIVE SCHOOL DAYS, INCLUDING EXPULSION**

**5.1. GENERAL.** The following procedures apply in cases where the DoDEA School Administrator, or designee, determines that a disciplinary exclusion for more than ten (10) consecutive school days, including suspension or expulsion, may be warranted and the DoDEA student is not an eligible DoDEA student with disabilities requiring processing of discipline in accordance with Section 6 and/or Section 8 of this Issuance. The procedure for an exclusion in excess of ten (10) consecutive school days requires a formal hearing before a DoDEA school disciplinary committee and a decision by the DoDEA District Superintendent. Prior to proceeding with any disciplinary action at this level, it is incumbent upon the DoDEA School Administrator to assess the severity or seriousness of the incident, the DoDEA student's age, past history, and ensure the disciplinary action being pursued is appropriate based upon the individual DoDEA student and offense.

### **5.2. NOTICE OF PROPOSED EXCLUSION FOR OVER 10 SCHOOL DAYS.**

a. The DoDEA School Administrator will immediately notify the DoDEA student and the sponsor/parent/legal guardian in writing of the proposed discipline for exclusion in excess of ten (10) consecutive days to expulsion.

b. The notice shall:

(1) State the reason(s) for the proposed discipline in sufficient detail to inform the recipient of the nature of the alleged offense and to allow the recipient to answer to the allegations.

(2) Identify the specific proposed punishment (whether suspension or expulsion over ten (10) days, to be considered by the DoDEA school disciplinary committee.

(3) Provide a copy of this Issuance.

(4) State a right to a prompt hearing, the date of that hearing, or the manner in which the date for the hearing will be established by the DoDEA School Administrator in consultation with the sponsor/parent/legal guardian.

(5) State the right of a DoDEA student and sponsor/parent/legal guardian to waive a hearing. A waiver of a hearing must be in writing, and when a hearing is waived, the DoDEA school's proposed discipline shall be forwarded directly to the DoDEA District Superintendent for decision without convening the DoDEA school disciplinary committee.

(6) State the right of the DoDEA student to be represented by the sponsor/parent/legal guardian, legal counsel at private expense, or another representative in a hearing before the DoDEA school disciplinary committee.

(7) State the right to present a defense at the hearing, including the presentation of evidence and calling of witnesses to refute the allegations of misconduct and to mitigate the severity of the proposed disciplinary action.

(8) State the DoDEA School Administrator's right to present evidence, call witnesses, and be represented by counsel or another representative.

(9) State the procedures the DoDEA student may exercise to appeal any determination the DoDEA student believes is adverse to his or her interests.

c. Any DoDEA student exclusion from the DoDEA school for over ten (10) consecutive school days requires notification to the military installation.

**5.3. PROCEDURES FOR APPOINTING THE DODEA SCHOOL DISCIPLINARY COMMITTEE.** In consultation with the DoDEA District Superintendent, the DoDEA School Administrator:

a. Will appoint a DoDEA school disciplinary committee at the start of each school year, or whenever reasonably practicable thereafter. The DoDEA school disciplinary committee shall be composed of an odd number of members (not less than three (3)) each of whom must be either a DoD employee, or a non-DoD employee who has executed a voluntary services agreement in accordance with DoD Instruction 1100.21 and received instruction in protecting DoDEA student privacy in accordance with DoD Instruction 5400.11.

b. Shall ensure that representation on the DoDEA disciplinary committee consists of individuals from each of the following categories, as appropriate, with at least one (1) member who is a non-DoDEA employee.

(1) DoDEA School Administrator(s) from another DoDEA school or the district.

(2) Member(s) of the DoDEA school, Installation Advisory Committee, DoDEA school improvement committee, etc.

(3) Representative(s) from the military installation command, such as the DoDEA school liaison officer, with the concurrence of the military installation Commander or his or her designee.

(4) DoDEA Educator(s) or DoDEA community member(s) with special expertise of benefit to the DoDEA disciplinary committee (e.g., background in special education, behavior management, etc.).

c. May adjust the membership, as necessary. For example: Add a member(s) with special expertise (e.g., a special educator in a case involving a DoDEA student suspected of or with a disability), substitute for or replace a member who is unavailable, increase the membership, if the matter is serious enough to warrant greater community involvement or excuse a member when the DoDEA School Administrator determines that the member has a potential conflict of

interest or has a personal relationship with any DoDEA student or the sponsor/parent/legal guardian of any student brought before the DoDEA school disciplinary committee.

d. Will ensure the DoDEA school disciplinary committee takes no disciplinary action involving an eligible DoDEA student with disabilities unless and until a CSC or 504 Accommodation Team has determined, pursuant to the procedures in Sections 6 or 8 of this Issuance, that further action by the DoDEA school disciplinary committee is appropriate.

e. Will obtain a signature on a voluntary services agreement prescribed by DoD Instruction 1100.21 for any member of the DoDEA school disciplinary committee who is not a DoD employee, and will brief each such member on his or her duties to protect the confidentiality of the evidence presented, deliberations by, and identification of any DoDEA student appearing before the DoDEA school disciplinary committee.

#### **5.4. HEARING PROCEDURES.**

**a. DoDEA School Administrator's Role.** The DoDEA School Administrator shall:

(1) Convene the DoDEA school disciplinary committee to conduct a hearing promptly after the decision is made to recommend a DoDEA school disciplinary action involving exclusion from the DoDEA school for a period over ten (10) school days.

(2) Appoint or allow the DoDEA school disciplinary committee to elect a member of the committee to serve as its Chairperson to manage the hearing.

(3) Appear and represent the interests of the DoDEA school before the DoDEA school disciplinary committee.

(4) Ensure that a record is made regarding the matters presented at the DoDEA school disciplinary committee hearing by furnishing the DoDEA school disciplinary committee with a recording device or a court reporter to record the proceedings. One (1) copy of the recording or transcript shall be retained by the DoDEA school and another copy shall be presented to the DoDEA student facing discipline immediately after the conclusion of the hearing.

(5) Promptly send the record of the DoDEA school disciplinary hearing to the DoDEA District Superintendent for a decision. The record should include the following:

(a) The recording or transcript of the hearing.

(b) The written notice of proposed disciplinary action.

(c) Any written response or rebuttal presented on behalf of the DoDEA student.

(d) All documentary and/or physical evidence presented at the hearing.

(e) The written recommendation of the DoDEA school disciplinary committee including its findings of fact and recommendations.

(f) Any other documentation or correspondence related to the proposed disciplinary action and DoDEA school disciplinary hearing.

**b. DoDEA School Disciplinary Committee and Chairperson Duties.** The Chairperson rules on objections and requests from parties at the hearing and ensures that:

(1) The DoDEA student, sponsor/parent/legal guardian, DoDEA student's representative, and the DoDEA school's administration or representatives are afforded an opportunity to present evidence in the form of witnesses and/or documentation.

(2) No member of the DoDEA school disciplinary committee is a witness in the disciplinary proceeding.

(3) The hearing proceeds in an orderly and timely manner.

(4) The DoDEA school disciplinary committee meets in closed session (not transcribed or taped) to determine appropriate findings of fact, and recommend appropriate action, as determined by a majority of the members. The DoDEA school disciplinary committee meets after it has provided all parties a sufficient opportunity to be heard.

(5) The DoDEA school disciplinary committee prepares a written report of its findings of fact and its recommendations on disposition, including any relevant attachments, and forwards it to the DoDEA School Administrator who shall forward it to the DoDEA District Superintendent with the rest of the record in accordance with Section 5.4.a.(5) of this Issuance.

(6) The DoDEA school disciplinary committee report identifies, as appropriate, specific extenuating (i.e., self-defense or other matters suggesting a reason to find no misconduct), mitigating (i.e., evidence of sincere remorse, accident or mistake, attempts to ameliorate injury, assistance in identifying other perpetrators, etc.), or aggravating (i.e., multiple prior offenses, seriousness of the offense, apparent maliciousness of the perpetrator, extent of injuries caused, etc.) circumstances that influenced the DoDEA school disciplinary committee's deliberations and recommendation.

(7) The DoDEA school disciplinary committee is mindful of the requirements to protect personally identifiable information in accordance with DoD Instruction 5400.11.

## **5.5. DECIDING OFFICIAL.**

a. The DoDEA District Superintendent, after review and consideration of the recommendation of the entire record outlined in Section 5.4.(a)(5) of this Issuance, promptly prepares and delivers to the DoDEA student, or the student's representative, his or her written decision stating the findings of fact and disciplinary action, if any, to be taken against the DoDEA student.

b. The DoDEA District Superintendent's written decision may agree or disagree with the DoDEA school disciplinary committee's findings of fact and/or the recommendations concerning disciplinary action.

c. The DoDEA District Superintendent shall ensure that his or her decision explains the basis for any disagreement with the DoDEA school disciplinary committee.

d. There is no requirement for the DoDEA District Superintendent to attend the DoDEA school disciplinary committee hearing. The DoDEA District Superintendent or his or her designee may attend the hearing, if feasible.

#### **5.6. FIRST-LEVEL APPELLATE AUTHORITY.**

a. The DoDEA student or his or her representative has five (5) school days from the date of receipt of the DoDEA District Superintendent's decision to appeal the decision by writing to the First-Level Appellate Authority, the DoDEA Region DSE, with a copy to the DoDEA District Superintendent, explaining the basis of the appeal and including any documentary evidence relied upon to support the appeal. The appeal may address and/or seek review of the DoDEA District Superintendent's findings of fact, the disciplinary consequence, or both.

b. If the DoDEA student, or his or her representative, appeals the decision, the DoDEA District Superintendent forwards the record in accordance with Section 5.4.a.(5) of this Issuance, upon receipt of a copy of the appeal to the DoDEA Region Director for Student Excellence. In addition, the DoDEA student's school records are always reviewable by the First-Level Appellate official.

c. The DoDEA Region DSE will review the case file and render a decision as expeditiously as possible, normally within ten (10) school days of the receipt of the hearing record.

#### **5.7. FINAL APPELLATE AUTHORITY.**

a. The DoDEA student or his or her representative has five (5) school days from the date of receipt of the DoDEA Region Director for Student Excellence's decision to appeal the decision in writing to the Second Level and Final Appellate Authority, with a copy to the DoDEA Region Director for Student Excellence, explaining the basis of the appeal and including any documentary evidence relied upon to support the appeal. The appeal may address and/or seek review of the DoDEA Region Director for Student Excellence's findings of fact, the disciplinary consequence, or both.

b. If the DoDEA student appeals the decision, the DoDEA Region Director for Student Excellence forwards the record as detailed in Section 5.4.a.(5) of this Issuance to the DoDEA Director upon receipt of a copy of the appeal.

c. The DoDEA Director will review the case file as expeditiously as possible and render a decision in writing, normally within ten (10) school days of the receipt of the complete hearing record.

## **5.8. OTHER CONSIDERATIONS.**

a. No DoDEA student under expulsion or suspension from a DoDEA or non-DoDEA school may attend a DoDEA school without express authorization of the gaining DoDEA District Superintendent.

b. Enrollment decisions regarding students expelled or suspended from their transferring school must be coordinated between sending and receiving DoDEA School Administrators and elevated to the gaining DoDEA District Superintendent for the final decision.

c. A suspension or expulsion will not be stayed pending the outcome of the disciplinary hearing and appellate process.

d. The term of a suspension or expulsion over ten (10) days will not extend beyond the end of the current school year, except when:

(1) The violation involves sexual assault, or any dangerous weapon as defined by Section 930 of Title 18, United States Code (e.g., firearm, knife, explosive, incendiary, or poison gas device, or dangerous object).

(2) The misconduct leading to expulsion occurs during the last six (6) weeks of the DoDEA school year, in which case the expulsion may be extended to the end of the first semester for the following year.

e. DoDEA students suspended or expelled under this Section shall be provided reasonable opportunities to maintain academic progress and/or academic counseling during the period of their disciplinary sanction. Expelled DoDEA students who are space-required, tuition-free shall be offered the opportunity to enroll in an appropriate correspondence, virtual, or distance learning course or program at DoDEA expense. Qualifying DoDEA students with disabilities who are enrolled in a space-required, tuition free status and receive specialized instruction, services, and/or accommodations pursuant to DoD Instruction 1342.12 or DoDEA Administrative Instruction 2500.14 who are suspended or expelled under this Section shall continue to receive services during the period of suspension or expulsion in accordance with Section 6.5. or Section 8.5. of this Issuance. For all other eligibility categories (space-available and/or tuition-paying), expenditure of additional resources may be prohibited in accordance with DoDEA Regulation 1030.1 and/or DoDEA Administrative Instruction 7200.01 and thus may require that a DoDEA student be disenrolled.

## **SECTION 6: MODIFIED PROCEDURES FOR THE ADMINISTRATION OF DISCIPLINE OF STUDENTS WITH DISABILITIES ELIGIBLE FOR SPECIAL EDUCATION**

**6.1. GENERAL.** The rules in this Section modify the rules in Section 5 of this Issuance and must be followed when a qualifying DoDEA student with disabilities, as defined under DoD Instruction 1342.12, is proposed for disciplinary action that would change the DoDEA student's placement.

### **6.2. CHANGE OF PLACEMENT.**

a. It is a change of placement if a DoDEA student with disabilities is excluded from his or her current placement for more than ten (10) consecutive school days.

b. It is also a change of placement when a DoDEA student has been excluded for more than ten (10) cumulative school days in a school year if the CSC determines, after considering the following circumstances, that the DoDEA student with disabilities has been subjected to a series of exclusions that constitutes a pattern:

(1) The series of exclusions total more than ten (10) school days in a school year.

(2) The DoDEA student's behavior is substantially similar to his or her behavior in previous incidents that resulted in the series of exclusions.

(3) The length of each exclusion, the total amount of time the DoDEA student has been excluded, and the proximity of the exclusion to one another.

(4) Any other relevant facts, such as the pattern of exclusions in the previous school year.

**6.3. NOTIFICATION OF CHANGE OF PLACEMENT.** On the date the decision is made to make a removal that constitutes a change of placement for a DoDEA student with a disability because of misconduct, the DoDEA school must notify the DoDEA student and sponsor/parent/legal guardian and representative, if applicable, of that decision, and provide the procedural safeguards notice described in DoD Instruction 1342.12. The CSC must conduct a manifestation determination meeting pursuant to Section 6.6. of this Issuance for all changes in placement.

**6.4. PERIOD OF REMOVAL.** DoDEA school personnel may remove a DoDEA student with a disability who engaged in misconduct from his or her current placement to an appropriate interim alternative educational setting (AES), another setting, or suspension, if:

a. Suspension for not more than ten (10) consecutive school days: DoDEA students with disabilities may be suspended to the extent those alternatives are applied to DoDEA students without disabilities.

b. For additional suspensions of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct as long as those suspensions do not constitute a pattern under Section 6.2.b. of this Issuance.

c. In special circumstances, DoDEA school personnel may remove a DoDEA student with a disability to an appropriate interim AES determined by the CSC for a period up to forty-five (45) school days, if the DoDEA student:

(1) Carries a weapon or possesses a weapon at the DoDEA school, on school premises, or at a school function.

(2) Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, while at the DoDEA school, on school premises, or at a school function.

(3) Inflicts serious bodily injury upon another person while at the DoDEA school, on school premises, or at a school function.

d. Removal to an appropriate interim AES for up to 45 school days under this special circumstance exception requires a manifestation determination review pursuant to Section 6.6. of this Issuance, although the suspension may occur regardless of the outcome of the manifestation determination.

e. To an AES determined by the CSC, another setting or suspension for more than ten (10) school days, where the behavior giving rise to the violation was determined by the CSC not to be a manifestation of the DoDEA student's disability, in accordance with Section 6.6. of this Issuance.

## **6.5. SERVICES REQUIRED DURING REMOVAL.**

a. If a DoDEA student with a disability is excluded from his or her placement for ten (10) cumulative school days or less in a school year, the DoDEA school is required only to provide services comparable to the services it provides to a DoDEA student without disabilities who is similarly removed.

b. If a DoDEA student with a disability is excluded from his or her placement for more than ten (10) consecutive or cumulative school days, the DoDEA school must:

(1) Continue to provide the DoDEA student with educational services as identified in the DoDEA student's IEP to a free appropriate public education so as to enable the DoDEA student to continue participating in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the DoDEA student's IEP.



(2) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

c. Once a DoDEA student with a disability has been suspended or excluded for more than ten (10) cumulative school days within a school year, the next time exclusionary discipline is proposed, the CSC must determine whether the pattern of removals constitutes a change of placement.

(1) If the CSC determines the exclusions do not constitute a pattern, and the pending exclusion is not a change of placement, then the CSC determines the extent to which services are needed to enable the DoDEA student to continue participating in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(2) If the CSC determines that there is a pattern of exclusions that constitutes a change of placement, then the CSC must conduct a manifestation determination, as indicated in Section 6.6. of the Issuance.

d. If, during the period of removal which exceeds ten (10) cumulative days, the DoDEA student enrolls in a CSC-recommended program, DoDEA will provide services required by the IEP at the AES established by DoDEA. If a DoDEA student enrolls in a program not recommended by DoDEA (e.g., at personal expense), DoDEA may not provide services.

e. If a DoDEA student is not eligible as space-required, tuition-free, and Section 6.5.d. of this Issuance requires expenditure of additional funds, space may no longer be considered available for that DoDEA student and thus disenrollment or additional tuition may be required per DoDEA Regulation 1030.1 and DoDEA Administrative Instruction 7200.01.

## **6.6. MANIFESTATION CASE STUDY COMMITTEE DETERMINATION REQUIRED.**

a. A DoDEA School Administrator must give the notice required by DoD Manual 1342.12 and convene a manifestation determination meeting with the CSC, consisting of the DoDEA school, the sponsor/parent/legal guardian, and relevant members of the DoDEA student's CSC as determined by the sponsor/parent/legal guardian and the DoDEA school, within ten (10) school days of recommending a disciplinary decision that would exclude the DoDEA student with disabilities for:

(1) More than ten (10) consecutive school days.

(2) A period in excess of ten (10) cumulative school days when the DoDEA student has been subjected to a series of exclusions that constitute a pattern.

b. The manifestation CSC will review all relevant information in the DoDEA student's file (including the IEP, any DoDEA teacher observations, evaluation results, data from behavior intervention strategies, whether there were any failures to implement the IEP or behavioral interventions, and any relevant information provided by the sponsor/parent/legal guardian) to

determine whether the misconduct was a manifestation of the DoDEA student's disability. See Appendix 3: Manifestation Determination Worksheet.

**6.7. COMMITTEE DETERMINATION THAT MISCONDUCT DID NOT RESULT FROM STUDENT'S DODEA DISABILITY.** The CSC will promptly:

a. Forward the case file and a recommended course of action to the DoDEA School Administrator, who may refer the case to a DoDEA school disciplinary committee for processing under Section 5 of this Issuance.

b. Reconvene following a disciplinary decision that would change the DoDEA student's placement, to revise the DoDEA student's IEP and/or devise a suitable AES and delivery system to ensure the DoDEA student receives services consistent with his or her IEP.

**6.8. COMMITTEE DETERMINATION THAT MISCONDUCT RESULTS FROM DODEA STUDENT'S DISABILITY.**

a. The DoDEA student's misconduct is a manifestation of his or her disability when all information described in Sections 6.2.b. and 6.6.b. of this Issuance has been reviewed and the CSC determines that the DoDEA student's conduct was:

(1) Caused by, or had a direct and substantial relationship to, the DoDEA student's disability.

(2) Was the direct result of the DoDEA school's failure to implement the DoDEA student's IEP.

b. When misconduct is a manifestation of the DoDEA student's disability, special procedures require the DoDEA School Administrator to immediately convene the DoDEA student's IEP CSC to:

(1) Conduct a functional behavioral assessment and implement a behavioral intervention plan, if no such assessment had been conducted or plan devised by the DoDEA school prior to the decision to remove the DoDEA student from his or her placement.

(2) Review any existing behavioral intervention and/or disciplinary plan and modify it as necessary to address the behavior.

(3) Revise the DoDEA student's IEP and/or placement and delivery system to ensure the DoDEA student receives services consistent with his or her IEP.

(4) Return the DoDEA student to the placement from which he or she was removed unless the DoDEA school and the sponsor/parent/legal guardian both agree to a change of placement as part of the modification of the behavioral intervention or disciplinary plan by:

(a) Not later than the end of ten (10) school days of removal.

(b) Not later than the end of the 45th day, if the DoDEA student committed a weapons or drug offense or caused serious bodily injury; for which he or she has been removed to an alternative educational setting prescribed by the CSC for not more than forty-five (45) school days.

(5) Take immediate steps to remedy deficiencies if the CSC determined the conduct in question was the direct result of the DoDEA school's failure to implement the IEP.

**6.9. PROTECTIONS FOR DODEA STUDENTS NOT DETERMINED ELIGIBLE FOR SPECIAL EDUCATION AT THE TIME OF MISCONDUCT.** A DoDEA student who has not been determined eligible for special education and related services, who has engaged in misconduct, may assert any of the protections provided for in this Section, if the DoDEA school had knowledge that the DoDEA student had a disability **before** the behavior occurred that precipitated the disciplinary action.

**a. Basis for Knowledge.** The DoDEA school is deemed to have knowledge that a DoDEA student is a DoDEA student with a disability if, before the behavior occurred:

(1) The sponsor/parent/legal guardian of the DoDEA student expressed concern in writing that the DoDEA student is in need of special education and related services to a DoDEA teacher of the DoDEA student, a DoDEA School Administrator, or the DoDEA School Special Education Coordinator.

(2) The sponsor/parent/legal guardian had requested an initial evaluation of the DoDEA student in accordance with DoD Instruction 1342.12.

(3) The DoDEA student's teacher or other educational personnel expressed specific concerns directly to the CSC or to other supervisory personnel of DoDEA, about a pattern of behavior demonstrated by the student.

(4) The DoDEA student presented an active IEP from another school.

(5) Exceptions. The DoDEA school shall not be deemed to have knowledge that the student is a DoDEA student with a disability when either:

(a) The DoDEA student has been evaluated and determined to be ineligible for services, in accordance with the procedures of DoD Instruction 1342.12 and DoD Manual 1342.12.

(b) The sponsor/parent/legal guardian of the DoDEA student has not allowed an evaluation for special education and related services or refused services, in writing.

**b. Conditions that Apply if No Basis of Knowledge Before Misconduct.** If the DoDEA school does not have knowledge, prior to taking disciplinary measures against a DoDEA student, that he or she is a DoDEA student with a disability, in accordance with Section 6.5.a. of this Issuance the DoDEA student may be subjected to the disciplinary measures applicable to DoDEA students without disabilities who engaged in comparable behaviors.

**c. Evaluation Requested During Pendency of Disciplinary Action.**

(1) If a request is made for an evaluation of a DoDEA student during the time period in which the student is subject to disciplinary measures, the evaluation shall be conducted on an expedited basis. Pending the results of the evaluation, the DoDEA student remains in his or her then current educational placement, which can include suspension or expulsion without educational services per DoD Manual 1342.12.

(2) If the DoDEA student is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the Activity and information provided by the sponsor/parent/legal guardian, the DoDEA school must provide special education and related services in accordance with an IEP.

**6.10. SPECIAL EDUCATION DISPUTE RESOLUTION PROCEEDINGS INVOKED.**

a. A sponsor/parent/legal guardian may invoke dispute resolution procedures in accordance with DoD Instruction 1342.12 and DoD Manual 1342.12 to challenge the DoDEA student's disciplinary removal to an alternate educational setting or the manifestation determination.

b. The DoDEA school may challenge the current placement of the DoDEA student under the IEP if it believes maintaining the current placement is substantially likely to result in injury to the DoDEA student or to others.

c. The DoDEA student's placement will be the alternate educational placement pending the decision of the hearing officer or the expiration of the authorized alternate placement, whichever occurs first, unless the DoDEA school and the sponsor/parent/legal guardian agree otherwise.

**6.11. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.**

**a. Rule of Construction.** This Issuance does not prohibit a DoDEA school from reporting an alleged crime committed by a DoDEA student with a disability to appropriate authorities, or prevents military, host nation, or state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal, host nation, and state law to crimes committed by a DoDEA student with a disability.

**b. Transmittal of Records.** The agency reporting a crime under this Issuance may transmit copies of the DoDEA student's special education and disciplinary records only to the extent that the transmission is in accordance with DoD Instruction 5400.11.

**6.12. REMOVAL FROM THE SCHOOL BUS.** A CSC, including a representative from the DoDEA transportation office, must convene when a DoDEA student with disabilities is proposed for removal from school bus privileges for over ten (10) consecutive school days. A CSC need not be convened prior to removal from the bus if:

- a. The removal, regardless of the duration, is included in the behavior intervention plan, and the plan describes the circumstances under which the removal is appropriate.
- b. Alternative transportation to and from DoDEA school is available for the DoDEA student during the period of removal.

**6.13. SPONSOR/PARENT/LEGAL GUARDIAN CONSENT.** The sponsor/parent/legal guardian may:

- a. Consent to short-term extensions of a DoDEA student's removal when the sponsor/parent/legal guardian and DoDEA School Administrator agree that a short-term extension will preserve the welfare of the DoDEA student or of other DoDEA students or personnel in the DoDEA school.
- b. Confirm with the DoDEA school a date, as soon as possible following a consensual extension of any removal, on which a CSC will convene to determine the DoDEA student's IEP or placement.

## **SECTION 7: DoDEA STUDENT SCHOOL BUS BEHAVIOR MANAGEMENT POLICY**

### **7.1. GENERAL.**

a. The time DoDEA students spend going to and from a DoDEA school is an extension of the school day. DoDEA school buses, walking to and from a school or bus stop, and bus stop waiting time are an extension of the DoDEA school campus. As such, DoDEA School Administrators are equally as responsible for discipline on DoDEA school buses as they are on DoDEA school campuses. DoDEA School Administrators may take disciplinary action for DoDEA school bus misconduct consistent with this section or may process them in accordance with procedures available for other DoDEA school discipline. Riding DoDEA school buses is a privilege that may be suspended or revoked if a student does not behave in a safe and proper manner. This Section does not preclude the DoDEA School Administrators from exercising appropriate discipline, including suspending the DoDEA student from a DoDEA school or from school related activities, for misconduct on school buses.

b. This Section applies to all DoDEA schools. However, in a few instances, the primary responsibility for enforcing DoDEA school bus safety and disciplinary control remains with the Military Service pursuant to a Memorandum of Understanding (MOU) agreed upon by, and available from, the DoDEA Region Director for Student Excellence and the respective major command. The DoDEA Region Director for Student Excellence will amend these MOUs to ensure that Military Command disciplinary policy is consistent with the policy in this Issuance.

### **7.2. SCHOOL BUS DISCIPLINE OF DoDEA STUDENTS WITH DISABILITIES.**

Discipline of DoDEA students with disabilities must be consistent in accordance with Section 6 and/or Section 8 of this Issuance. A DoDEA student with disabilities may not be removed from the DoDEA school bus for more than ten (10) consecutive days unless the CSC has determined the DoDEA student's removal does not constitute a change in placement or otherwise interfere with the DoDEA student's free appropriate public education. A DoDEA student with disabilities can be removed from the DoDEA school bus for more than ten (10) consecutive days only when alternate means of transportation are available.

### **7.3. SCHOOL BUS BEHAVIOR MANAGEMENT RESPONSIBILITIES.**

**a. DoDEA Student Responsibilities.** DoDEA students are responsible for:

(1) Complying with the Behavior Standards for DoDEA School Bus Students (Figure 1: Example of Behavior Standards for DoDEA School Bus Students) and with the general behavior standards in accordance with Section 3 of this Issuance.

(2) Obeying the instructions of bus drivers, DoDEA personnel, United States Government contractors, and military officials.

(3) Attending and completing DoDEA school bus safety training sessions when offered by the DoDEA school or military installation.

(4) Presenting a DoDEA school bus pass on demand, where bus passes are used.

(5) Reporting the loss of damage of DoDEA school bus passes, if used, to the local school bus management office or DoDEA School Administrator's office.

**b. Sponsor/Parent/Legal Guardian Responsibilities.** The sponsor/parent/legal guardian is responsible for:

(1) Ensuring that DoDEA student family members afforded DoDEA school bus riding privileges have been advised of and understand the DoDEA school bus behavior management policy and understand that DoDEA school bus service is a privilege, not a right.

(2) Ensuring that DoDEA student family members have valid DoDEA school bus transportation passes, if required.

(3) Ensuring the safety of DoDEA student family members to, from, and while waiting at the bus stop.

(4) Ensuring that DoDEA student family members are at the designated bus pickup point five (5) minutes before the scheduled arrival of the bus.

(5) Reporting incidents to the local DoDEA School Administrator, local DoDEA school bus office management officials of unsafe or unruly behavior observed on DoDEA school buses and at school bus stops.

(6) Providing appropriate DoDEA school personnel with timely written notification, including by email, when a DoDEA student has a change in his or her normal transportation schedule or plan.

(7) Getting their DoDEA student family members to and from the DoDEA school in accordance with DoDEA school arrival and departure policies if their bus riding privileges are suspended by DoDEA or appropriate military installation officials.

(8) Acknowledging that DoDEA student ridership is contingent upon sponsor/parent/legal guardian agreement to these responsibilities described in this Section.

**c. DoDEA School Administrator Responsibilities.** The DoDEA School Administrator, or designees, are responsible for:

(1) The overall administration and success of their DoDEA school bus discipline program.

(2) Enforcing DoDEA school guidance, in which it is clear that the time DoDEA students spend going to and from a DoDEA school is an extension of their school day and that DoDEA school buses are an extension of the DoDEA school campus.

(3) Taking appropriate action when DoDEA student school bus misbehavior occurs, to include: Collecting, when investigative assistance is otherwise unavailable, the facts necessary to resolve factual matters; deciding and announcing what discipline is appropriate, and ensuring that DoDEA school bus misconduct items are recorded in the DoDEA student's disciplinary file; when required, DoDEA school bus misconduct incidents must also be recorded in the DoDEA student record in the DoDEA SIS.

(4) Providing DoDEA school bus loading and off-loading supervision of DoDEA students at DoDEA school areas.

(5) Referring to the local military installation command for review, repeated acts of DoDEA student misconduct, DoDEA student criminal acts, DoDEA student-caused damage to the bus or another person's property, and instances when the sponsor/parent/legal guardian is unwilling or unable to take corrective action when the DoDEA student has been found guilty of DoDEA school bus misbehavior.

(6) Monitoring attendance of DoDEA students who have been removed from DoDEA school buses for cause.

(7) Conferring with the sponsor/parent/legal guardian of a DoDEA student who has been involved in a serious misconduct incident or repeated incidents of DoDEA school bus misbehavior.

(8) Ensuring that each sponsor/parent/legal guardian, at the time of registration, is provided with all documentation in accordance with Section 7.4.a. of this Issuance.

(9) Ensuring that DoDEA students with disabilities are disciplined in accordance with Section 6 and/or Section 8 of this Issuance, when the procedures of Sections 4 or 5 of this Issuance are not applicable.

**d. DoDEA School Transportation Office Personnel Responsibilities.** DoDEA school transportation office personnel, where present, will:

(1) Issue DoDEA school bus passes to DoDEA students accorded DoDEA school bus riding privileges only after determining that the sponsor/parent/legal guardian and the DoDEA student have met the requirements in accordance with Sections 7.3.a. and 7.3.b. of this Issuance.

(2) Conduct or ensure the bus service providers conduct in-DoDEA school training on safety and DoDEA school bus behavior standards.

(3) Ensure that:

(a) DoDEA bus service providers have procedures on how to handle and report various incidents and the actions to be taken when DoDEA student misconduct is observed while en route to or from a DoDEA school.

(b) DoDEA bus contractors have trained their bus drivers and administrative personnel on these procedures.



(c) DoDEA bus service providers complete written reports of DoDEA student misconduct on DoDEA school buses and provide those reports to DoDEA School Administrator for implementation of the DoDEA school bus discipline program.

(4) Coordinate with DoDEA School Administrator and military installation commanders on serious DoDEA school bus misbehavior or alleged criminal acts by DoDEA students.

(5) Collect and return DoDEA school bus passes as a result of the suspension of DoDEA school bus riding privileges (i.e., temporary or for the balance of the school year).

(6) Advise the DoDEA bus service provider of the duration of suspensions and any route changes that may result.

(7) Assist the DoDEA School Administrator or their designees in the supervision of the loading and unloading of DoDEA school buses at schools.

(8) Assist the DoDEA School Administrator in preparing and submitting adequate and proper information, including written reports, required in the delivery of bus transportation services, when DoDEA school transportation office personnel are present at the scene of an accident or incident requiring the reporting of information.

(9) Act as the primary liaison between DoDEA school bus contractors, DoDEA School Administrators, and military community officials.

**e. DoDEA District Superintendent Responsibilities.** The DoDEA District Superintendent shall carry out or designate a DoDEA Community Superintendent to act on behalf of the DoDEA District Superintendent to:

(1) Exercises general supervisory authority over the educational aspects of the administration of DoDEA school bus discipline within the District, to ensure consistency in the application of discipline, safety, and adherence to the DoDEA school bus behavior standards.

(2) Resolves disputes between the sponsor/parent/legal guardian/student and the DoDEA School Administrator on the severity or propriety of discipline for a DoDEA student.

(3) Coordinates with military installation command when sponsor/parent/legal guardian ridership of the DoDEA school bus is necessary to ensure the safety or continuation of DoDEA school bus services.

**f. DoDEA Region Director for Student Excellence Responsibilities.** The DoDEA Region Director for Student Excellence will:

(1) Support the educational concerns of DoDEA School Administrators, District and Community Superintendents, and fellow DoDEA Region Directors for Student Excellence in the administration of student discipline.

(2) Negotiate MOUs with the Military Services, as appropriate, to:

(a) Obtain Military Service support and assistance in the administration of the DoDEA school bus discipline program, including the Military Service's traditional provision of investigative support.

(b) Ensure the safety or continuation of DoDEA school bus services, when appropriate.

(3) Negotiate changes to MOUs with the Military Services to ensure consistency in discipline for DoDEA school bus infractions consistent with the provisions of this Section, and in cases involving students with disabilities, the provisions of Section 6 and/or Section 8 of this Issuance.

**7.4. SCHOOL BUS DISCIPLINE PROCEDURES.** The following procedures are provided to assist in implementing the DoDEA school bus behavior management policy:

**a. Sponsor/Parent/Legal Guardian Involvement.** At the time the DoDEA student is registered for DoDEA school bus service, the DoDEA School Registrar or DoDEA school bus personnel will provide a copy of the Memorandum for Sponsors/Parents/Legal Guardians of Students Riding DoDEA School Buses (Figure 2: Example of Memorandum for Sponsors/Parents/Legal Guardians of DoDEA Students Riding DoDEA School Buses), the Behavior Standards for DoDEA School Bus Students (Figure 1: Example of Behavior Standards for DoDEA School Bus Students), the DoDEA School Bus Infractions and Recommended Consequences (Figure 3: Example of DoDEA School Bus Infractions and Recommended Consequences) and a copy of this Issuance. The sponsor/parent/legal guardian and the DoDEA student will sign and return the Behavior Standards for School Bus Students document, or similar, to the DoDEA school to acknowledge they understand and agree with the contents. The signed copy of the acknowledgement will be held in the DoDEA school bus transportation office files.

**b. DoDEA School Bus Passes.** Where DoDEA school bus passes are used:

(1) Each DoDEA student will travel to and from the DoDEA school on the assigned bus.

(2) When the DoDEA school District issues bus passes, DoDEA students will be responsible for safekeeping their assigned DoDEA student pass. If issued, DoDEA students will be required to present their DoDEA school bus passes to the driver of the bus as they board the bus. DoDEA students without DoDEA school bus passes will provide their name to the bus driver operator who will report the DoDEA student to the DoDEA School Administrator and the transportation management office. DoDEA students or their sponsor/parent/legal guardian will report the loss or damage to DoDEA school bus passes to the local DoDEA transportation management office for a replacement.

**c. DoDEA School Bus Discipline.**

(1) Minor Infractions of the Disciplinary Rules. The DoDEA School Administrator, DoDEA school bus operator, safety attendant, monitor, or a sponsor/parent/legal guardian may

remind a DoDEA student of what is acceptable behavior when a DoDEA student engages in minor acts of indiscretion.

(2) Serious or Repeated Infractions.

(a) Person(s) observing DoDEA student misconduct will submit a formal report to the DoDEA School Administrator using the DoDEA School Bus Conduct Referral document (Figure 4: Example of DoDEA School Bus Conduct Referral.)

(b) The DoDEA School Administrator will review the DoDEA School Bus Conduct Referral and evaluate the seriousness of the offenses described and prescribe the appropriate remedy.

(c) When the DoDEA School Administrator concludes that the conduct does not warrant suspension of bus privileges, the DoDEA School Administrator will counsel the DoDEA student and send a DoDEA Student Misconduct Warning memorandum (Figure 5: Example of DoDEA Student Misconduct Warning) to the sponsor/parent/legal guardian of the DoDEA student informing them of the misconduct and requesting that the behavior standards for DoDEA school bus students be discussed with the DoDEA student. The sponsor/parent/legal guardian of the DoDEA student are required to acknowledge receipt of the DoDEA School Administrator's DoDEA Student Misconduct Warning memorandum.

(d) If the offenses described in the referral suggest to the DoDEA School Administrator that a suspension of bus privileges is appropriate, the DoDEA School Administrator will immediately notify the DoDEA student of the intent to suspend the DoDEA student from the bus and provide the DoDEA student and sponsor/parent/legal guardian with the opportunity for an informal conference.

(e) During the informal conference, the DoDEA School Administrator will describe the information that supports the DoDEA School Administrator's decision to suspend and afford the DoDEA student an opportunity to respond by way of explanation of his or her conduct, and by offering other types of evidence to support the DoDEA student's explanation or to establish that the DoDEA student has not committed an act of misconduct. The informal conference may be held before, or simultaneously with, the administration of any suspension. But suspension may be executed prior to the informal conference when the DoDEA student's conduct imperils or threatens to imperil the life or limb of any DoDEA student, or to disrupt the good order of the bus or the general educational environment, and the informal conference cannot reasonably be conducted prior to the commencement of the suspension. After the DoDEA School Administrator has made a reasonable and prompt inquiry/investigation and is in possession of sufficient information to make a determination, the DoDEA School Administrator shall make and announce to the DoDEA student and sponsor/parent/legal guardian his or her findings. The DoDEA School Administrator shall then inform the DoDEA student as to the disciplinary sanctions which will be imposed, if any. No appeals are authorized for sanctions imposed in accordance with this Section unless the DoDEA School Administrator elects to proceed in accordance with Sections 4 or 5 of this Issuance.

(f) The DoDEA School Administrator may proceed to discipline a DoDEA student for DoDEA school bus misconduct in accordance with this Section, or he or she may consolidate DoDEA school bus discipline with a disciplinary proceeding for other DoDEA school disciplinary infractions, in accordance with Sections 4-6 and/or 8 of this Issuance, particularly if the DoDEA student's school bus behavior jeopardizes the safety and well-being of others and/or the DoDEA student commits any prohibited act set forth in the Glossary (e.g., abusive misconduct, illegal/controlled substance, sexual assault, etc.), or the DoDEA student's misconduct unreasonably disrupts the educational environment. If the DoDEA School Administrator seeks to invoke the procedures and actions in accordance with Sections 4-6 and/or 8 of this Issuance, case processing pursuant to these Sections will preempt further processing pursuant to this Section.

(g) The procedures in Section 6 and/or Section 8 of this Issuance must be followed if a DoDEA student eligible for special education or a 504 Accommodation Plan is subjected to DoDEA school bus suspension for a period in excess of ten (10) consecutive days in a school year, or is subjected to removal for more than ten (10) cumulative days in a school year when the cumulative removals constitute a pattern and change of placement.

(h) If the DoDEA School Administrator decides that suspension from the DoDEA school bus is appropriate in accordance with this Section, Sections 4-6, or Section 8 of this Issuance, he or she will forward a memorandum to the sponsor/parent/legal guardian of the DoDEA student advising of the seriousness of the violation, and that DoDEA school bus riding privileges for the DoDEA student have been suspended for a specified period of time (Figure 7: Example of Removal of DoDEA School Bus Riding Privileges.) The sponsor/parent/legal guardian of the DoDEA student is required to acknowledge receipt of the Removal of DoDEA School Bus Riding Privilege memorandum. The DoDEA School Administrator shall forward a copy of each suspension notice to the DoDEA school bus transportation office, which will notify the school bus contractor of the suspension. The DoDEA School Administrator will retain the DoDEA student's school bus pass until returned to the DoDEA student at the end of the suspension period.

(i) The type of discipline appropriate to a DoDEA student's misconduct depends on the DoDEA School Administrator's assessment of the nature and seriousness of the misconduct and the number of infractions. In deciding the appropriate discipline, the DoDEA School Administrator must take into account a variety of factors including, but not limited to; the:

1. Nature, extent, and seriousness of the injury or possible injury to life and limb to another person or to the perpetrator or the damage to property.
2. Strength of the evidence of the offense.
3. Prior disciplinary record of the DoDEA student and of other perpetrators who have been punished for the same or similar misbehavior.
4. Perpetrator's intent to cause injury or damage.
5. Perpetrator's contrition and willingness to make restitution for damage to property.

6. Value of the damage caused to property.
7. Intention or malice of the DoDEA student to cause the damage to property or the injury to person.
8. Difference in the size or age of the DoDEA student causing the damage or injury in relation to that of the victim.
9. Degree to which the particular vulgarity or obscenity is objectively offensive.
10. Role of the DoDEA student as an initiator or following of others in the misconduct.
11. Age of the perpetrator and the awareness of the offensiveness of the particular breakdown of authority over, or the discipline of, other DoDEA students and the repetitiveness or cumulative effect of multiple infractions.

(j) The DoDEA School Administrator shall maintain a listing of DoDEA school bus behavior infractions and actions record (Figure 3: Example of DoDEA School Bus Infractions and Recommended Consequences) and provide a copy to the local DoDEA transportation management office.

(k) If the DoDEA School Administrator determines to pursue discipline involving exclusion from the DoDEA school, in addition to suspension of DoDEA school bus privileges, the DoDEA School Administrator will follow the applicable procedures of Sections 4-6 and 8 of this Issuance; and make the action suspending DoDEA school bus privileges a part of those procedures; or, the DoDEA School Administrator may pursue those procedures in addition to those prescribed herein for suspension of DoDEA school bus privileges.

Figure 1: Example of Behavior Standards for DoDEA School Bus Students

<b>BEHAVIOR STANDARDS FOR DODEA SCHOOL BUS STUDENTS</b>
<p><u>ON AND AROUND DODEA SCHOOL BUSES, DODEA STUDENTS WILL:</u></p> <ol style="list-style-type: none"><li>1. Comply with all school rules with the "Behavior Standards for DoDEA School Bus Students."</li><li>2. Board and exit the bus in an orderly, safe manner.</li><li>3. Present DoDEA school bus pass when boarding the DoDEA school bus and upon demand.</li><li>4. Remain seated while on the DoDEA school bus. If the DoDEA school bus is equipped with seat belts, they must be fastened.</li><li>5. Talk with other passengers in a normal voice.</li><li>6. Keep all parts of the body inside the DoDEA school bus windows.</li><li>7. Keep aisles, steps, and empty seats free from obstruction.</li><li>8. Remain fully and properly clothed.</li><li>9. Treat the DoDEA school bus driver and fellow DoDEA students with respect.</li><li>10. Promptly comply with the DoDEA school bus driver's or bus monitor's instructions.</li><li>11. Treat the DoDEA school bus and other private property with care.</li></ol> <p><u>ON OR AROUND DODEA SCHOOL BUSES STUDENTS WILL NOT:</u></p> <ol style="list-style-type: none"><li>1. Fight, push, shove, or trip other passengers.</li></ol>

<ol style="list-style-type: none"> <li>2. Use or possess unacceptable items identified in the DoDEA school "Student Handbook."</li> <li>3. Push while boarding, on, or exiting the bus.</li> <li>4. Get on or off the DoDEA school bus while the bus is in motion.</li> <li>5. Make excessive noise or play electronic equipment without earplugs.</li> <li>6. Put objects out of DoDEA school bus windows or hang out of windows.</li> <li>7. Engage in horseplay.</li> <li>8. Obstruct aisles, steps, or seats.</li> <li>9. Engage in public displays of affection or prohibited sexual behaviors.</li> <li>10. Engage in sexual harassment, sexual assault, or other related abusive misconduct.</li> <li>11. Eat, drink, or litter on the DoDEA school bus.*</li> <li>12. Use objectively offensive or abusive language or make obscene gestures.</li> <li>13. Spit or bite.</li> <li>14. Bully, commit discriminatory harassment, or interfere with other DoDEA students.</li> <li>15. Disrespect, distract or interfere with DoDEA school bus driver.</li> <li>16. Damage private property.</li> <li>17. Sit in the DoDEA school bus driver's seat, or touch bus operating devices or equipment.</li> <li>18. Open or try to open DoDEA school bus door.</li> <li>19. Throw or shoot objects inside or out of DoDEA school bus.</li> <li>20. Tamper with bus controls or emergency equipment.</li> <li>21. Violate any other DoDEA school rule, law, or military installation regulation.</li> </ol>	
<p>* DoDEA students may drink water and eat snacks on any daily commute bus that travels one-way in excess of one (1) hour between the first pickup and drop-off. However, littering on the bus is still prohibited, and DoDEA students are required to take their litter off the DoDEA school bus. Any DoDEA student who litters on the DoDEA school bus shall be disciplined in accordance with Section 7 this Issuance.</p>	
DoDEA School Administrator's Signature <i>John Doe</i>	Sponsor/Parent/Legal Guardian Signature <i>Capt. Rudy</i>

Figure 2: Example of a Memorandum for Sponsors/Parents/Legal Guardians of DoDEA Students Riding the DoDEA School Buses

MEMORANDUM FOR SPONSORS/PARENTS/LEGAL GUARDIANS/ OF DoDEA STUDENTS RIDING DoDEA SCHOOL BUSES
SUBJECT: Standards of Conduct for DoDEA School Buses
<p>This memorandum concerns the safety and well-being of our DoDEA students as they ride our DoDEA school buses this school year. Please take the time to read it carefully, sign, and return the attached Behavior Standards for School Bus Students and Sponsor/Parent/Legal Guardian Acknowledgment.</p> <p>Safe transportation of DoDEA students is the concern of DoDEA, sponsors/parents/legal guardians and DoDEA students. DoDEA contracts for bus transportation from responsible firms with mechanically sound vehicles and properly qualified drivers. However, the safe operation of DoDEA school buses also depends on DoDEA student riders understanding and adhering to proper conduct.</p> <p>Sponsors/parents/legal guardians share with their DoDEA student(s) the responsibility for proper DoDEA student behavior in DoDEA's schools and on DoDEA school buses. Attached is a copy of the DoDEA Behavior Standards for School Bus Students and DoDEA Administrative Instruction 1347.01.</p> <p>Sponsors/parents/legal guardians must ensure that their child(ren) understand and follow these rules. In addition, DoDEA student riders must understand that DoDEA bus drivers are not to be distracted from safe driving by DoDEA student misbehavior. DoDEA students must show respect for the DoDEA bus drivers and follow the DoDEA bus drivers' instructions.</p>

As a sponsor/parent/legal guardian, you must agree in writing that you will ensure your child understands that riding the DoDEA school bus is a privilege, and that ridership privileges may be revoked for a violation of DoDEA school bus behavior rules. Please sit down with your child, carefully discuss the attached rules, sign and return them to your child's DoDEA School Administrator.

DoDEA school bus transportation is a privilege that may be suspended or revoked. DoDEA will strictly enforce DoDEA school bus rules. DoDEA students failing to comply with DoDEA school bus rules may find their DoDEA bus riding privileges suspended or revoked for the rest of the year. When this happens, unless there are extenuating circumstances related to a DoDEA student's disability, sponsors/parents/legal guardians assume all responsibility for transporting the DoDEA student(s) to from the DoDEA school. Let us work together to make this school year safe.

DoDEA School Administrator's Signature

*John Doe*

Parent's Signature

*Capt. Rudy*

Figure 3: Example of DoDEA School Bus Infractions and Recommended Consequences

<b>Student Name:</b> <i>Richard Rudy</i>		School: <i>Stuttgart High School</i>					
<b>School Bus Infractions and Recommended Consequences</b>		Bus Riding Privileges Suspended for:					
<i>Number column designates the number of incidents</i>		Warning	1-4 School Days	5-19 School Days	20-29 School Days	30 School Days	Remainder of Year
<b>INFRACTION BEHAVIOR</b>	Date						
<i>Yelling on the bus after being told to stop</i>	<i>Sept 5</i>	<i>XXX</i>					
<i>Slapped another student</i>	<i>Sept 21</i>			<i>XXX</i>			
<i>Safety violation, insubordination, fight</i>	<i>Oct 25</i>					<i>XXX</i>	
<p>a. All rule infractions are cumulative. A series of minor infractions may result in serious consequences.                      b. All misconduct must be evaluated on a case-by-case basis. Depending upon severity, warnings, removals, or expulsions may be deemed appropriate regardless of sequence or frequency of misconduct instance.                      c. Older DoDEA students are expected to behave more maturely and thoughtfully than younger DoDEA students, therefore, will be held more responsible for the consequences of their conduct.                      d. Possession of weapons or prohibited items, as described by this Issuance or other military regulations, controlled substances, alcohol, or other serious incidents will be reported and may result in exclusion from DoDEA school in addition to the loss of DoDEA school bus privileges.</p>							



Figure 4: Example of a DoDEA School Bus Conduct Referral

<p><i>Stuttgart High School</i></p> <p>OFFICE OF THE DoDEA SCHOOL ADMINISTRATOR</p> <p>DoDEA SCHOOL BUS CONDUCT REFERRAL</p>		
Date: <i>25 October 2019</i>	Time: <i>6:55 am</i>	
Student name and grade: <i>Richard Rudy, 6<sup>th</sup> grade</i>		
Bus number: <i>27</i>	Teacher: <i>Mrs. Herrera</i>	
<p>Please write below what you witnessed or heard. If stated or seen by another student, please include the name, grade, and teacher of the student witness or student making the report. Place the student's comments in quotation marks.</p> <p><i>Richard was out of his seat 4 times during the route to school. When reminded that he must be seated, he yelled "I don't have to sit down!" to the driver. He ran up and down the aisle, slapping students on the shoulders. The second time the driver corrected Richard, he told the driver to "shut up." As the driver was seeking a location to stop the bus to address these behaviors with Richard, he hit student Jesus Gonzales with his backpack and a fight began. The driver managed to stop the bus and separate the students. At that point, she radioed for assistance and a supervisor met her to ride the remainder of the way to school with the students.</i></p> <p><i>The bus tape verifies these infractions.</i></p>		
<i>Stan Isloff, Supervisor</i>		<i>October 25, 2019</i>
Print Name	Signature	Date

Figure 5: Example of a DoDEA Student Misconduct Warning

<p><i>Stuttgart High School</i>                  OFFICE OF THE DoDEA SCHOOL ADMINISTRATOR                  DoDEA STUDENT MISCONDUCT WARNING</p> <p style="text-align: right;">Date: <i>9/16/2019</i></p> <p>MEMORANDUM FOR <i>SGT and Mrs. William Rudy</i>                  Name of Sponsor/Parent/Legal Guardian</p>
<p><b>SUBJECT:</b> <i>Student Misconduct Warning</i></p>
<p>1. The school has received notice of unacceptable behavior by <u><i>Richard Rudy</i></u> on <u><i>September 16, 2019</i></u>. The report indicated:</p> <p><i>Shouting profanity on the bus. Would not listen to driver.</i></p>
<p>2. The administrative action taken in response to this incident is a warning. If another incident occurs involving your student, bus riding privileges may be suspended or revoked. During a period of removal, you will be responsible for transporting your student to and from school to arrive at <u><i>7 am</i></u> and depart at <u><i>2:30 pm</i></u>. Students may not be left at school outside of these times. Unit commanders or managers will be contacted for noncompliance with this schedule or student absence while school bus removal is in effect.</p>
<p>3. Please repeat your discussion of the attached standards of conduct with your dependent(s).</p>
<p>4. Please acknowledge receipt of this memorandum by signing the attached acknowledgment and returning it to school with your student in a sealed envelope addressed to:</p> <p>_____</p>
<p>DoDEA School Administrator's Signature</p>
<p>Attachment: As stated</p> <p>cc: DoDEA School Administrators DoDEA School Counselor Transportation Management</p>

Figure 6: Example of a Sponsor/Parent/Legal Guardian Acknowledgement of Receipt of DoDEA Student Misconduct Warning

SPONSOR/PARENT/LEGAL GUARDIAN ACKNOWLEDGEMENT OF			
RECEIPT OF DoDEA STUDENT MISCONDCUT WARNING			
I acknowledge receipt of the memorandum dated <u>9/16/19</u> warning me that my child (children) <u>Richard Rudy</u> (names(s)) was (were) involved in misconduct and that school bus privileges may be revoked or suspended if behavior does not improve.			
SGT Rudy _____	<u>9/18/2019</u>	<u>Richard Rudy</u>	<u>9/18/2019</u>
Signature	Date	Student Signature	Date
Telephone Numbers: _____	<u>123-456-7890</u>	<u>123-789-0456</u>	<u>123-789-1234</u>
	Duty/Work	Home	Emergency

Figure 7: Example of Removal of DoDEA School Bus Riding Privileges

OFFICE OF THE DoDEA SCHOOL ADMINISTRATOR REMOVAL OF DoDEA SCHOOL BUS RIDING PRIVILEGES	
Date: <u>25 October 2019</u>	
MEMORANDUM FOR <u>Capt. and Mrs. William Rudy</u> (Name of Sponsor/Parent/Legal Guardian)	
SUBJECT: <u>Removal of School Bus Riding Privileges</u>	
1. The school has received notice of unacceptable behavior by <u>Richard Rudy</u> on <u>25 October 2019</u> . The report indicated: <i>Richard was out of his seat 4 times during the route to school. When reminded that he must be seated, he yelled "I don't have to sit down!" to the driver. He ran up and down the aisle, slapping students on the shoulders. The second time the driver corrected Richard, he told the driver to "shut up." As the driver was seeking a location to stop the bus to address these behaviors with Richard, he hit student another student with his backpack and a fight began. The driver managed to stop the bus and separate the students. At that point, she radioed for assistance and a supervisor met her to ride the remainder of the way to school with the students. The bus tape verifies these infractions.</i>	
2. As a result of this incident, <u>Richard</u> 's school bus riding privileges are suspended for <u>30</u> days, from <u>25 October</u> to <u>16 January</u> . During this period of removal, you are responsible for transporting your student to and from school to arrive at <u>7 am</u> and depart at <u>2:30 pm</u> . Students may not be left at school outside of these times. Unit commanders or managers will be contacted for noncompliance with this schedule or in the event <u>Richard</u> is absent during this period.	
3. Please repeat your discussion of the attached standards of conduct with your student to ensure future compliance with all rules. Remember, school bus transportation is a privilege for your family member(s) and may be suspended or revoked.	
4. Please sign acknowledgement of this memorandum and return it to school by _____ with your student in a sealed envelope addressed to <u>Principal Walls</u> .	
DoDEA School Administrator's Signature	
Attachment: Acknowledge of Receipt cc: DoDEA School Administrators Teacher Transportation Management Office	

Figure 8: Example of a Sponsor/Parent/Legal Guardian Acknowledgement of Receipt of Removal of DoDEA School Bus Riding Privileges

SPONSOR/PARENT/LEGAL GUARDIAN ACKNOWLEDGEMENT OF RECEIPT REMOVAL OF DoDEA SCHOOL BUS RIDING PRIVILEGES			
I acknowledge receipt of the memorandum dated <u>10/25/2019</u> advising me that my student(s) <u>Richard Rudy</u> has had his/her/their school bus privileges suspended from <u>25 Oct</u> to <u>16 Jan</u> .			
<u>Veronica Rudy</u> Sponsor/Parent/Legal Guardian Signature	<u>10/25/2019</u> Date	<u>Richard Rudy</u> Student Signature	<u>10/25/2019</u> Date
Telephone Numbers: <u>123-456-7890</u> Home	<u>123-789-0456</u> Cell	<u>123-789-1234</u> Other	

## **SECTION 8: MODIFIED PROCEDURES FOR THE ADMINISTRATION OF DISCIPLINE OF STUDENTS WITH DISABILITIES ELIGIBLE FOR 504 ACCOMMODATIONS**

**8.1. GENERAL.** The rules in this Section modify the rules in Section 5 of this Issuance and must be followed when a qualifying DoDEA student with disabilities who is under a 504 Accommodation Plan in accordance with Section 794 of United States Code Title 29 also known as Section 504 of the Rehabilitation Act of 1973 and hereafter referred to as “Section 504” and DoDEA Administrative Instruction 2500.14 and is proposed for disciplinary action that would change the DoDEA student’s placement. If there is no change in placement, or where the misconduct is the use or possession of illegal drugs or alcohol where the DoDEA student currently is engaging in the use of illegal drugs or alcohol, the rules prescribed by this Section do not apply and disciplinary action may be taken to the same extent as upon DoDEA students without disabilities.

### **8.2. CHANGE OF PLACEMENT.**

a. It is a change of placement if a DoDEA student with disabilities is removed from his or her current placement for more than ten (10) consecutive school days.

b. It is a change of placement when a DoDEA student has been removed for ten (10) cumulative days in a school year if the 504 Accommodation Team determines, after considering the following circumstances, that the DoDEA student with disabilities has been subjected to a series of exclusions that constitute a pattern:

- (1) The series of exclusions total more than ten (10) school days in a school year.
- (2) The DoDEA student’s behavior is substantially similar to his or her behavior in previous incidents that resulted in the series of exclusions.
- (3) The length of each exclusion, the total amount of time the DoDEA student has been removed, and the proximity of the removals to one another.
- (4) Any other relevant facts, such as the pattern of the exclusions in the previous school year.

**8.3. NOTIFICATION OF CHANGE OF PLACEMENT.** On the date the decision is made to implement exclusionary discipline that constitutes a change of placement for a DoDEA student with a disability, the DoDEA school must notify the sponsors/parents/legal guardians of that decision, and provide the sponsors/parents/legal guardians notice of the procedural safeguards in accordance with DoDEA Administrative Instruction 2500.14. A manifestation determination meeting in accordance with Section 8.6. of this Issuance must be conducted for all changes in placement (See Appendix 3: Manifestation Determination Worksheet.)

**8.4. PERIOD OF REMOVAL.** DoDEA school personnel may remove a DoDEA student with a disability from his or her current placement for misconduct to an appropriate interim AES, another setting, or suspension:

- a. For not more than ten (10) consecutive school days, to the extent those alternatives are applied to DoDEA students without disabilities.
- b. For additional exclusions of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct as long as those exclusions do not constitute a pattern in accordance with Section 8.2.b. of this Issuance.
- c. To an AES, another setting or suspension for more than ten (10) school days, where the behavior giving rise to the violation was determined by the 504 Accommodation Team not to be a manifestation determination of the DoDEA student's disability, in accordance with Section 8.6. of this Issuance.

**8.5. SERVICES REQUIRED DURING EXCLUSION.**

- a. If a DoDEA student with a disability is excluded from his or her placement for ten (10) cumulative school days or less in a school year, the DoDEA school is required only to provide services comparable to the services it provides to a DoDEA student without disabilities who is similarly excluded and such accommodations as are needed to meet the needs of the disabled DoDEA student as adequately as the needs of the similarly excluded nondisabled DoDEA student.
- b. Once a DoDEA student with a disability has been suspended for more than ten (10) cumulative school days within a school year, the next time the DoDEA student is proposed to be excluded for disciplinary reasons, the 504 Accommodation Team must determine whether the series of exclusions is a pattern that constitutes a change of placement and requires a manifestation determination in accordance with Section 8.6. of this Issuance. If the determination is that there is no pattern and thus the pending exclusion is not a change of placement, then the 504 Accommodation Team need not conduct a manifestation determination and forwards the file and recommended course of action to the DoDEA School Administrator who may apply relevant disciplinary procedures in the same manner and for the same duration as to DoDEA students without disabilities.
- c. If, during the period of suspension which exceeds ten (10) cumulative days, the DoDEA student enrolls in a 504 Accommodation Team-recommended program, DoDEA will provide services required by the 504 Accommodation Plan at the AES established by DoDEA. If a DoDEA student enrolls in an alternate educational program not recommended by DoDEA (e.g., at personal expense), DoDEA may not provide services.
- d. If a DoDEA student is not eligible as space-required, tuition-free, and in accordance with Section 8.5.c. of this Issuance requires expenditure of additional funds, space may no longer be considered available for that DoDEA student and thus disenrollment or additional tuition may be required per DoDEA Regulation 1030.1 and DoDEA Administrative Instruction 7200.01.

## 8.6. MANIFESTATION ACCOMMODATION TEAM DETERMINATION REQUIRED.

a. The DoDEA School Administrator must convene a manifestation determination meeting consisting of representatives of the DoDEA school who are knowledgeable about the DoDEA student, as determined by the DoDEA School Administrator, the sponsor/parent/legal guardian, and relevant members of the DoDEA student's 504 Accommodation Team either:

(1) Within ten (10) school days of recommending a disciplinary decision that would exclude a DoDEA student with disabilities for more than ten (10) consecutive school days.

(2) When a disciplinary decision is made that would remove a DoDEA student for a period in excess of ten (10) cumulative school days and the series of exclusions constitutes a pattern.

b. During the manifestation determination, the 504 Accommodation Team will review all relevant information in the DoDEA student's file (including the 504 Accommodation Plan, DoDEA teacher observations, and any relevant information provided by the sponsor/parent/legal guardian) to determine whether the misconduct was a manifestation of the DoDEA student's disability (See Appendix 3: Manifestation Determination Worksheet.)

## 8.7. 504 ACCOMMODATION TEAM DETERMINATION.

**a. Misconduct Did Not Result from the DoDEA Student's Disability.** The 504 Accommodation Team shall promptly forward the case with its determination to the DoDEA School Administrator for processing in accordance with Sections 4 or 5 of this Issuance.

**b. Misconduct Results from the DoDEA Student's Disability.** The DoDEA student's misconduct is a manifestation of his or her disability when the 504 Accommodation Team determines the DoDEA student's conduct was either:

(1) Caused by, or had a direct and substantial relationship to, the DoDEA student's disability.

(2) The direct result of the DoDEA school's failure to implement the DoDEA student's 504 Accommodation Plan.

**c. Special Procedures When the Conduct is a Manifestation.** The DoDEA School Administrator must immediately convene the DoDEA student's 504 Accommodation Team to:

(1) Conduct a Functional Behavioral Assessment (FBA) and implement a Behavioral Intervention Plan (BIP) if no such assessment had been conducted or plan devised by the DoDEA school prior to the decision to remove the DoDEA student from his or her placement.

(2) Review any existing behavioral intervention and modify it as necessary to address the behavior.

(3) Revise the DoDEA student's 504 Accommodation Plan and/or placement and delivery system to ensure the DoDEA student receives services consistent with his or her 504 Accommodation Plan.

(4) Return the DoDEA student to the placement from which he or she was excluded, not later than the end of ten (10) school days of removal, unless the DoDEA school and the sponsor/parent/legal guardian both agree to a change of placement as part of the modification of the BIP or disciplinary plan or 504 Accommodation Plan.

(5) Take immediate steps to remedy deficiencies if the DoDEA school, the sponsor/parent/legal guardian, and relevant members of the DoDEA student's 504 Accommodation Team determine the conduct in question was the direct result of the DoDEA school's failure to implement the DoDEA student's 504 Accommodation Plan.

**8.9. PROTECTIONS FOR DODEA STUDENTS NOT DETERMINED ELIGIBLE FOR A 504 ACCOMMODATION PLAN AT THE TIME OF MISCONDUCT.** A DoDEA student who has not been determined eligible for a 504 Accommodation Plan and who has engaged in misconduct may assert any of the protections provided for in accordance with this Section if the DoDEA school had knowledge the student was a student with a disability **before** the behavior occurred that precipitated the disciplinary action.

**a. Basis for Knowledge.** The DoDEA school is deemed to have knowledge that a DoDEA student is a DoDEA student with a disability if, before the behavior occurred:

(1) The sponsor/parent/legal guardian had requested an initial evaluation of the DoDEA student to determine the DoDEA student's eligibility under DoDEA Administrative Instruction 2500.14.

(2) The DoDEA student's teacher or other educational personnel expressed specific concerns directly to the 504 Accommodation Team or to school administrators about a pattern of behavior demonstrated by the DoDEA student.

(3) Exceptions. The DoDEA school shall not be deemed to have knowledge that the DoDEA student is a student with a disability when either:

(a) The DoDEA student has been evaluated and determined to be ineligible for a 504 Accommodation Plan, in accordance with the procedures of DoDEA Administrative Instruction 2500.14.

(b) The sponsor/parent/legal guardian of the DoDEA student has not allowed an evaluation for a 504 Accommodation Plan or refused services, in writing.

**b. Conditions.** Conditions that apply if no basis of knowledge before misconduct. If the DoDEA school does not have knowledge, prior to taking disciplinary measures against a DoDEA student, that he or she is a DoDEA student with a disability in accordance with Section 8.5.a. of this Issuance, the DoDEA student may be subjected to the disciplinary measures applicable to DoDEA students without disabilities who engaged in comparable behaviors.



**c. Evaluation.** For an evaluation requested during pendency of a disciplinary action.

(1) If a request is made for an evaluation of a DoDEA student during the time period in which the DoDEA student is subject to disciplinary measures, the evaluation shall be conducted on an expedited basis. Pending the results of the evaluation, the DoDEA student shall remain in the educational placement determined by DoDEA school authorities which may be in the regular classroom or the location to which the DoDEA student is removed.

(2) If the DoDEA student is determined to be eligible for a 504 Accommodation Plan, the DoDEA school shall provide accommodations in the setting in which the DoDEA student is then placed. If the DoDEA student is determined to be a DoDEA student with a disability, taking into consideration information from the evaluation conducted by the Activity and information provided by the sponsors/parents/legal guardians, the DoDEA school must provide 504 accommodations in accordance with this Section.

**8.10. 504 ACCOMMODATION PLAN STAY PUT WHEN DISPUTE RESOLUTION PROCEEDINGS INVOKED.** When a sponsor/parent/legal guardian invokes dispute resolution procedures, in accordance with DoDEA Administrative Instruction 2500.14, to challenge the DoDEA student's disciplinary removal to an AES or the manifestation determination, the DoDEA student's placement will not be changed until the administrative review is completed, unless the DoDEA school and the sponsor/parent/legal guardian agree otherwise.

### **8.11. REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.**

**a. Transmittal of Records.** An agency reporting a crime in accordance with this Section may transmit copies of the DoDEA student's education, 504 Accommodation Plan, and disciplinary records only to the extent that the transmission is in accordance with DoD Instruction 5400.11.

**b. Rule of Construction.** This Issuance does not prohibit a DoDEA school from reporting a crime committed by a DoDEA student with a disability to appropriate authorities, or prevents military, host nation, or state law enforcement, and judicial authorities from exercising their responsibilities with regard to the application of Federal, host nation, and state law to crimes committed by a DoDEA student with a disability.

**8.12. REMOVAL FROM THE DODEA SCHOOL BUS.** A 504 Accommodation Team, including a representative from the DoDEA transportation office, must convene when a DoDEA student with disabilities is proposed for removal from DoDEA school bus privileges for over ten (10) consecutive school days. A 504 Accommodation Team need not be convened prior to removal from the DoDEA school bus if:

- a. The removal, regardless of the duration, is included as a permissible strategy in the behavior intervention plan, and the plan also describes the circumstances under which the removal for specified durations is appropriate.
- b. Alternative transportation to and from DoDEA school is available for the DoDEA student during the period of removal.

**8.13. SPONSOR/PARENT/LEGAL GUARDIAN CONSENT.** The sponsor/parent/legal guardian may:

- a. Consent to short-term extensions of a DoDEA student's removal when the sponsor/parent/legal guardian and the DoDEA School Administrator agree that a short-term extension will preserve the welfare of the DoDEA student or of other DoDEA students or personnel in the DoDEA school.
- b. Confirm with the DoDEA school a date, as soon as possible following a consensual extension of any removal, on which a 504 Accommodation Team will convene to determine the DoDEA student's 504 Accommodation Plan or change of placement.

## GLOSSARY

### G.1. ACRONYMS.

AES	Alternative Educational Setting
BIP	Behavioral Intervention Plan
CSC	Case Study Committee
DSE	Director of Student Excellence
FBA	Functional Behavioral Assessment
IDEA	Individual with Disabilities Education Act
IEP	Individualized Education Program
MOU	Memorandum of Understanding
SIS	Student Information System

**G.2. DEFINITIONS.** Unless otherwise noted, these terms and their definitions are for the purpose of this Issuance only.

**504 Accommodation Plan.** A written plan specifying the nature of the DoDEA student's disability and the major life activity(ies), its limits, the basis for determining the disability, the educational impact of the disability, the area(s) for accommodation(s), the accommodation strategies, and documentation as to how the DoDEA student's progress will be determined.

**abusive misconduct, other related.** Any behavior or conduct by a DoDEA student, employee, or volunteer that consists of sexual or sex-based physical and/or emotional mistreatment expected to make a DoDEA student feel pressured, uncomfortable, physically threatened, in pain, embarrassed, or offended, but that does not rise to the level of sexual harassment or sexual assault, as those terms are defined in DoDEA Administrative Instruction 1443.02. It also includes when a DoDEA student, employee or volunteer tries to exploit their position of authority or undue influence over a DoDEA student to manipulate that DoDEA student into an inappropriate, coerced, or unlawful romantic or sexual relationship, regardless of whether or not the victim objects or the behavior is overtly sexual.

**DoDEA School Administrator.** One who holds presiding rank in the school. A DoDEA School Administrator authorized by this Issuance to take particular disciplinary action includes an Assistant Administrator or any other educator to whom the DoDEA School Administrator has properly delegated authority to administer discipline on behalf of the DoDEA School Administrator.

**AES.** A temporary setting in or out of the DoDEA school, other than the setting normally attended by the DoDEA student (e.g., alternative classroom, home setting, military installation library) as determined by DoDEA school authorities or the CSC or 504 Accommodation Team in accordance with DoD Manual 1342.12 or DoDEA Administrative Instruction 2500.14 as the appropriate learning environment for a DoDEA student because of a violation of DoDEA school rules and regulations, or disruption of regular classroom activities.

**ameliorate.** To make or become better.

**Behavior Intervention Plan.** A proactive plan that utilizes positive behavioral interventions and supports to address behaviors that interfere with the learning of a DoDEA student, the learning of others, or require disciplinary action. It may also prescribe specific and appropriate restraint and/or seclusion techniques in accordance with DoDEA Administrative Instruction 2510.01.

**bullying.** Bullying is physical or emotional aggression characterized by repeated occurrences, an intention to harm, and an imbalance of power between the aggressor (one (1) or more) and the victim (one (1) or more). Bullying is sufficiently severe, persistent, or pervasive in that it creates an intimidating, threatening, or abusive educational environment for a DoDEA student in the DoDEA school, on DoDEA school grounds, in DoDEA school-provided transportation, and/or DoDEA school sponsored activities or events (regardless of the location). It has the effect of substantially disrupting or interfering with the orderly operation of the DoDEA school and/or educational performance or opportunities of a DoDEA student.

**Case Study Committee.** In accordance with DoD Instruction 1342.12, a DoDEA school-level multidisciplinary team comprised of, among others, an DoDEA School Administrator or designee who is qualified to supervise or provide special education, one (1) or more of the DoDEA student's regular education teachers, one (1) or more special education DoDEA teachers, sponsor/parent/legal guardian, and related service providers (if appropriate).

**cyberbullying.** Bullying committed through the use of electronic communications or using electronic communications to convey a message in any form (text, image, audio, or video). Includes, but is not limited to, the use of computers, mobile phones, other electronic devices, or the Internet social networking sites, and instant messaging.

**discriminatory harassment.** Conduct towards another based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a sponsor/parent/legal guardian that is unwelcome and sufficiently serious that it denies or limits the ability of a DoDEA student, employee, or other beneficiary to participate in or benefit from DoDEA conducted or sponsored educational or training programs or activities.

**drug paraphernalia.** Any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under Section 863 of Title 21, United States Code.

**emancipated.** Legal mechanism by which a minor is freed from control by their sponsors/parents/legal guardians and the sponsors/parents/legal guardians are freed from any and all responsibility toward the child.

**exclusionary discipline.** Exclusionary discipline describes any type of DoDEA school disciplinary action that excludes a DoDEA student from his or her usual educational setting including in DoDEA school suspension, out of DoDEA school suspensions, expulsions, or alternative educational setting.

**expulsion.** The removal of a DoDEA student from a DoDEA school for the remainder of a semester or for a school year. Misconduct leading to expulsion that occurs during the last six (6) weeks of the school year and may extend to the end of the first semester of the following school year or for one (1) year when the expulsion action is taken with respect to a firearm violation, sexual conduct/harassment, or an explosive, incendiary, and/or poison gas device.

**firearm.** Any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive. This includes any explosive device or weapon including any explosive, incendiary, poison gas, bomb, grenade, or rocket, or replica of such.

**formal hearing.** The process by which the DoDEA school disciplinary committee reviews the evidence and affords both the DoDEA school and the DoDEA student accused of misconduct (and his or her sponsor/parent/legal guardian) an opportunity to address the allegations of misconduct and the proposed disciplinary action. Formal hearings afford certain due process rights to the DoDEA student accused of misconduct when the proposed disciplinary action involves exclusion for more than ten (10) consecutive school days. These rights include:

Notice of the allegations and proposed disciplinary action in writing prior to the hearing.

The opportunity to:

Present a defense in the form of witnesses and/or documentary evidence at the hearing.

Have a representative at the hearing.

Request that relevant questions be asked of witnesses at the hearing.

A recommended decision made by the DoDEA school disciplinary committee, written findings of fact, and a decision by the DoDEA District Superintendent furnished to the accused.

A right of appeal to the DoDEA Region Director for Student Excellence and the Director, DoDEA.

**illegal/controlled substance.** A substance legal in the host nation, but illegal and/or controlled by Section 812 of Title 21, United States Code, is an illegal or controlled substance under this

**Issuance.** Includes all illicit drugs (e.g., marijuana, cocaine, amphetamine, methamphetamine, lysergic acid diethylamide, opium, heroin, phencyclidine, barbituric acid, and any compound or derivative of these substances) and illegal substances and/or controlled substances as defined by Section 812 of Title 21, United States Code, or host nation law. This is to include legal substances (e.g., readily available chemicals, over-the-counter and prescription drugs) that are abused or misused (e.g., sniffing glue or inhalants, exceeding recommended amounts of pills or other substances, or taking medicine prescribed for another person).

**in school suspension.** An instance in which a DoDEA school temporarily excludes a DoDEA student from his or her regular classroom(s) for disciplinary purposes but the DoDEA student remains under the direct supervision of DoDEA school personnel. Direct supervision means DoDEA school personnel are physically in the same location as DoDEA students under their supervision.

**IEP.** A written document that is developed, reviewed, and revised at a meeting of the CSC, identifying the required components of the IEP for a DoDEA student with a disability.

**informal hearing (e.g., conference).** Prior to imposing a disciplinary consequence that does not include removal for more than ten (10) days, if possible, without compromising DoDEA school safety, or as soon as possible after imposing a consequence, the DoDEA School Administrator or teacher should conduct an informal conference with the DoDEA student to ensure that the proper DoDEA student is being disciplined, that he or she knows why the disciplinary action is being taken, and to afford the DoDEA student a chance to explain his or her involvement in the alleged misconduct.

**law enforcement.** Includes local, host nation, and military law enforcement agencies and DoDEA District Force Protection Officers.

**manifestation determination.** For DoDEA students with disabilities, the process conducted when a change of placement is proposed (e.g., removal over ten (10) consecutive school days or over ten (10) cumulative days where the series of removals constitutes a pattern) in which the CSC or 504 Accommodation Team reviews all relevant information and the relationship between the DoDEA student's disability and the DoDEA student's behavior to determine whether the behavior is a manifestation of the DoDEA student's disability or a failure to serve the IEP or 504 Accommodation Plan.

**other related abusive misconduct.** See "abusive misconduct, other related."

**preponderance of the evidence.** Based on credible evidence considered, it is more likely than not an allegation is true or not true.

**prohibited sexual behavior.** Any willingly engaged in behaviors of a sexual nature, either alone or with others, including sexting, sharing of youth-produced nude images, sexual activity, or any other inappropriate behaviors of a sexual nature (unrelated to approved legitimate DoDEA school instruction or curriculum) while at DoDEA school, on DoDEA school buses or other transport, or when participating in any DoDEA-conducted or sponsored programs, activities, or events.

**promptly.** With little or no delay.

**removal.** As used in this Issuance has the same meaning as exclusionary discipline and may be used with relation to DoDEA school buses (removal of DoDEA school bus privileges) and in reference to educational placement for DoDEA students with disabilities to ensure consistency with Sections 921-932 and Chapter 33 of Title 20, United States Code, as known and referred in this Issuance as “The Individuals with Disabilities Education Act” or “IDEA.”

**restorative justice.** Discipline that focuses on repairing harm through inclusive processes that engage all stakeholders and shifts the focus of discipline from punishment to learning and from the individual to the community.

**school day.** Any day, including a partial day, that DoDEA students are in DoDEA school for instructional purposes.

**DoDEA School Disciplinary Committee.** A DoDEA school committee comprised of DoDEA school officials and military installation and community representatives who are DoD employees. Non-DoD employees may be included on the DoDEA school disciplinary committee if the non-DoD member executes a voluntary services agreement as prescribed by DoD Instruction 1100.21 and is briefed on protecting DoDEA student privacy. The DoDEA school disciplinary committee meets to consider disciplinary matters in which removal in excess of ten (10) school days, including expulsion, has been recommended by the DoDEA School Administrator.

**serious bodily injury.** Bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty as defined by Section 1365(h)(3) of Title 18, United States Code.

**sexual assault.** Physical contact of a clearly sexual nature acted on against a person’s will or when the person is incapable of giving voluntary or lawful consent due to the person’s age, intellectual or developmental disability, or being under the influence of mind-altering substance(s).

**sexual harassment.** A form of discriminatory harassment that involves conduct that is sexual in nature, unwelcome, and sufficiently serious that it denies or limits the ability of a DoDEA student, employee, or other beneficiary to participate in or benefit from DoDEA conducted or sponsored educational or training programs and activities.

**special education.** Specially designed instruction, which is provided at no cost to the sponsors/parents/legal guardians, to meet the unique needs of a DoDEA student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education.

**student with a disability.** Any DoDEA student age 3 through 21 inclusive, before graduation from high school or completion of the General Education Degree, who a CSC has determined

has one or more disabilities and needs and qualifies for special education and related services under DoD Instruction 1342.12 or who a 504 Accommodation Team has determined has an impairment of a major life function and is eligible for a 504 Accommodation Plan under DoDEA Administrative Instruction 2500.14.

**suspension.** Removal of a DoDEA student from classes or DoDEA school for any period short of expulsion. Suspensions may be in-school or out-of-school. Suspensions from DoDEA school are not to exceed ten (10) consecutive school days without a formal hearing.

**weapons.** Weapons, including (but not limited to) “dangerous weapons” as defined in Section 930(g)(2) of Title 18, United States Code, are items carried, presented, or used in the presence of other persons with the intent of threatening or harming any individual. Also included are items that are capable of causing death or serious bodily injury as defined at Section 1365(h)(3) of Title 18, United States Code. They include, but are not limited to, guns, ammunition, knives of any blade length, swords, razors, box or carpet cutters, slingshots, nun chucks, blackjacks, brass/metal knuckles, throwing stars. Any flailing instrument such as: a fighting chain, heavy studded or chain belt, or objects designed to project a missile, explosives, mace, pepper spray, or any other similar propellant, or any other object or instrument that is made or used in a manner to either inflict or threaten to inflict bodily injury or instill fear (e.g., replica/look-alike gun, baseball bat, laser pointer, letter opener, etc.).



## REFERENCES

- DoD Instruction 1100.21, “Voluntary Services in the Department of Defense,” March 27, 2019
- DoD Instruction 1342.12, “Provision of Early Intervention and Special Education Services to Eligible DoD Dependents,” June 17, 2015
- DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019, as amended
- DoD Manual 1342.12, “Implementation of Early Intervention and Special Education Services to Eligible DoD Dependents,” June 17, 2015
- DoDEA Administrative Instruction 1353.01, “Student Rights and Responsibilities,” April 6, 2021
- DoDEA Administrative Instruction 1443.01, Volume 1, “Executive Order 13160 Administration: Compliance Requirements and Appeals,” February 22, 2019
- DoDEA Administrative Instruction 1443.01, Volume 2, “Executive Order 13160 Administration: Discrimination Complaints Processing,” February 21, 2019
- DoDEA Administrative Instruction 1443.02, “Prohibited Sexual, Sex-Based, and Other Related Abusive Misconduct Reporting and Response,” February 21, 2019
- DoDEA Administrative Instruction 2500.14, “Nondiscrimination and 504 Accommodation on the Basis of Disability in DoDEA Conducted Education Programs and Activities,” April 29, 2009, as amended
- DoDEA Administrative Instruction 2510.01, “Student Behavior Interventions,” July 6, 2015
- DoDEA Administrative Instruction 7200.01, “DoDEA Tuition Program,” October 13, 2017, as amended
- DoDEA Form 6600.1-F2, “DoDEA Computer and Internet Access Agreement for Students,” February 2010
- DoDEA Procedural Guide 5760.01-01, “Serious Incident Reporting Procedures,” August 24, 2016
- DoDEA Regulation 1030.1, “Space-Available Eligibility Requirements for Education of Minor Dependents in Overseas Areas,” April 4, 2005
- DoDEA Regulation 3030.01, “DoDEA Incident Reporting Program,” May 21, 2019
- DoDEA Regulation 4700.04, “Serious Incident Reporting,” June 20, 2016
- United States Code, Title 18
- United States Code, Title 20 Sections 921-932 and Chapter 33 (also known as “The Individuals with Disabilities Education Act” or “IDEA”)
- United States Code, Title 20, Section 7961 (also known as “The Gun Free Schools Act”)
- United States Code, Title 21
- United States Code, Title 29 Section 794 (also known as “Section 504 of the Rehabilitation Act of 1973, Section 504”)
- United States Constitution, First Amendment

## APPENDIX

### APPENDIX 1: INTERNAL CONTROLS EVALUATION CHECKLIST

#### 1.1. DoDEA School Level.

- Appoint members of the DoDEA school disciplinary committee and ensure all members have been briefed on all applicable privacy requirements.
- Ensure DoDEA students and sponsors/parents/legal guardians have read and signed the DoDEA student handbook and DoDEA student transportation documentation in accordance with Section 7.4.a. of this Issuance.
- Complete all disciplinary case files and ensure final disposition of any exclusionary discipline or discipline of any kind where the infraction involves sexual misconduct is captured in the DoDEA SIS.
- Ensure that any discipline imposed for violation of DoDEA Administrative Instruction 1443.02 is recorded in both the Student Incident Referral and the SIS regardless of severity.
- Forward the case file to the DoDEA District Superintendent in all cases in which:
  - A DoDEA school disciplinary committee makes a recommendation concerning discipline.
  - The DoDEA School Administrator's disciplinary decision is appealed to the DoDEA District Superintendent.
- Provide to the DoDEA District Superintendent, by 15 June of each year, an annual disciplinary report which reflects the data elements in accordance with Section 2.1.b. of this Issuance.
- Complete disciplinary report for local review and annual DoDEA teacher training to review positive behavior interventions for DoDEA students and any adjustments to DoDEA school improvement goals related to this report.

#### 1.2. DoDEA District Level.

- Serve as the deciding authority in all cases referred to a DoDEA school disciplinary committee (i.e., involving exclusion over ten (10) consecutive days, including expulsion) and issue the written decisions that grant or deny requests of the DoDEA school or the accused DoDEA student or his or her representative (e.g., requests for additional time to prepare the case or for other accommodations).
- Forward the entire case level to the next level, if a decision is appealed.
- Ensure proper due process is followed for any disciplinary proceeding and appeal.
- Review annual DoDEA school disciplinary reports and accompanying plans to address any disproportionality represented in DoDEA school discipline.
- Provide DoDEA District report to the DSE no later than 30 June of each year.

**1.3. DoDEA Regional Level.**

- DSE serves as First-Level Appellate authority for suspensions over ten (10) days.
- Review DoDEA District level disciplinary reports to determine trends across the DoDEA Region and provide a consolidated report to the Chief Academic Officer no later than 15 July of each year.
- Ensure accuracy of all exclusionary discipline data.

**1.4. DoDEA Headquarters Level.**

- DoDEA Director serves as Final Appellate authority for suspensions over ten (10) days.
- Ensures annual training as required by this Issuance.
- Review annual disciplinary reports.
- Ensures training or policy changes based on discipline data.

## **APPENDIX 2: SUMMARY OF CHANGES**

This update to DoDEA Regulation 2051.1 includes a number of changes reflecting DoDEA's organizational structure. The update also provides clarity on:

- New roles and responsibilities for District Force Protection Officers to respond to threats or patterns of behavior that impact force protection conditions or involve law enforcement.
- Discipline regarding extracurricular activities is clarified in Section 4.7.
- The adjustment of language regarding exclusionary discipline to include any type of school disciplinary action that removes or excludes a student from his or her usual educational setting including in school suspension, out of school suspensions, expulsions, or alternative educational setting.
- The requirement to report final disposition of any exclusionary discipline as well as any infraction involving sexual misconduct in the Student Information System.
- Alignment with applicable provisions of DoDEA Administrative Instructions on Student Rights and Responsibilities and Discrimination Complaints Processing.
- DoDEA leadership requirement to coordinate with the installation and law enforcement officials when a student poses a serious threat to themselves, the safety of other students or the installation.
- Reporting requirements and procedures for leaders at all levels to review pertinent disciplinary data for the purposes of creating action plans and policy.
- Manifestation procedures.

The policy also seeks to address specific issues in discipline that have become more prevalent and to make language more precise.

### APPENDIX 3: MANIFESTATION DETERMINATION WORKSHEET

For use when contemplating disciplinary change in placement for DoDEA students covered under the Individuals with Disabilities Education Act (IDEA) and/or Section 504.

A disciplinary change in placement occurs when a covered DoDEA student with a disability, because of misconduct, is removed from his/her current educational placement for:

- more than ten (10) consecutive school days.
- more than ten (10) cumulative school days in a school year that constitute a pattern of exclusions.

**Manifestation Determination must take place within ten (10) school days of decision to change placement.**

#### PART A: BACKGROUND.

Date:  
 School:  
 Student:  
 Grade:  
 Area of Disability:  
 Current Educational Setting (if applicable):

#### Data being considered (check each one):

- |  |       |
|--|-------|
| <input type="checkbox"/> IEP   | Date: |
| <input type="checkbox"/> 504 Accommodation Plan                                  | Date: |
| <input type="checkbox"/> Assessment/evaluations                                  | Date: |
| <input type="checkbox"/> Medical information                                     | Date: |
| <input type="checkbox"/> Direct observations (attach)                            | Date: |
| <input type="checkbox"/> Discipline reports for the current school year (attach) | Date: |
| <input type="checkbox"/> Functional Behavioral Assessment (attach)               | Date: |
| <input type="checkbox"/> Interviews conducted (attach)                           | Date: |
| <input type="checkbox"/> Behavior Intervention Plan (attach)                     | Date: |
| <input type="checkbox"/> Other (attach):   | Date: |

Disciplinary history during current school year:

Number of incidents/dates:

Number of in-school suspensions: \_\_\_\_\_ Total # of days: \_\_\_\_\_

Number of out-of-school suspensions: \_\_\_\_\_ Total # of days: \_\_\_\_\_

\*\*Note: Bus suspensions may count as a day of suspension if the DoDEA student receives transportation as a related service and the DoDEA school does not provide the DoDEA student with alternative transportation to the DoDEA school.

#### Describe current misconduct and proposed disciplinary action (attach notice of proposed discipline):

#### PART B: DOES THE PROPOSED REMOVAL CHANGE THE DoDEA STUDENT’S PLACEMENT.

1. Does the proposed disciplinary action indicate removal for more than ten (10) consecutive school days?

YES  NO

If YES, the removal is a change in placement (proceed to PART D).  
If NO, proceed to question 2.

2. Does the proposed disciplinary action indicate removal for more than ten (10) cumulative school days in the current school year?

YES  NO

If YES, the CSC/504 Accommodation Team must determine whether the removal is part of a pattern of removals that constitutes a change in placement (proceed to PART C).

If NO, the removal is not a change in placement. No manifestation determination is required. The DoDEA student may be disciplined in the same manner as DoDEA students without disabilities.

**PART C: IS THE PROPOSED REMOVAL FOR MORE THAN TEN (10) CUMULATIVE SCHOOL DAYS PART OF A PATTERN OF REMOVALS THAT CONSTITUTES A CHANGE IN PLACEMENT.**

Consider whether the DoDEA student’s behavior is substantially similar to his or her behavior in previous incidents that resulted in the series of removals. Consider additional factors such as the length of each removal, the total amount of time the DoDEA student has been removed, and the proximity of the removals to one another.

YES  NO

If YES, the proposed removal is part of a pattern of removals that constitutes a change in placement (Proceed to PART D).

If NO, the proposed removal is not part of a pattern of removals that constitutes a change in placement. No manifestation determination is required. The DoDEA student may be disciplined in the same manner as DoDEA students without disabilities.

**PART D: MANIFESTATION DETERMINATION.**

1. Was the conduct in question caused by the DoDEA student’s disability, or does the misconduct in question have a direct or substantial relationship to the DoDEA student’s disability?  YES  NO

2. Was the conduct in question the direct result of the DoDEA school district’s failure to implement the IEP or 504 Accommodation Plan?  YES  NO

If **BOTH** questions 1 and 2 are answered “NO,” then the conduct under review **IS NOT** a manifestation determination of the DoDEA student’s disability. The DoDEA student may be disciplined in the same manner as DoDEA students without disabilities.

If **EITHER** question 1 or 2 is answered “YES,” then the conduct under review **IS** a manifestation determination of the DoDEA student’s disability. The DoDEA student may not be disciplined using procedures applicable to DoDEA students without disabilities. The CSC/504 Accommodation Team should review the DoDEA student’s IEP/504 Accommodation Plan for implementation, including the current placement, and review the functional behavioral assessment (FBA) and behavioral intervention/support plan (BIP) and modify it as necessary to address the behavior. If no FBA and BIP exists, the 504 Accommodation Team should convene to conduct an FBA and create a BIP. The DoDEA student must be returned to the placement from which he or she was removed, unless the sponsor/parent/legal guardian and DoDEA school agree to a change in placement, or a “special circumstance” exists as described below.

**Special Circumstance Removal:** Under limited special circumstances, DoDEA school personnel may remove a DoDEA student covered under IDEA to an interim alternate educational setting for not more than 45 school days without regard to whether the behavior is a manifestation determination of the DoDEA student’s disability where the

DoDEA student, while at school or during school related activities, (1) carries or possesses a weapon; (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance; and/or (3) has inflicted serious bodily injury on another person.

This provision applies only to DoDEA students covered under IDEA and should be implemented after consultation with OGC.

**Team Members/Participants:**

DoDEA Representative: \_\_\_\_\_

Sponsor/Parent/Legal Guardian/Student (if over 18): \_\_\_\_\_

Special Education Teacher: \_\_\_\_\_

General Education Teacher: \_\_\_\_\_

Other: \_\_\_\_\_

Other: \_\_\_\_\_