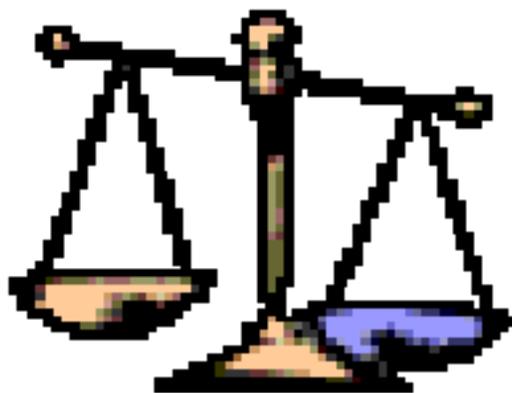


DODEA OFFICE OF GENERAL
COUNSEL



DODEA OFFICE OF
GENERAL COUNSEL'S
LEGAL NOTES

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I. New Student Disciplinary Regulation - Get Ready for Next School Year!

The new DoDEA student disciplinary regulation, DoDEA Regulation 2051.1 (attached) has been signed with an effective date of **July 1, 2008**. Below is a brief summary of some of the changes. The next few issues of Legal Notes will include more information about changes in the regulation that should be noted and/or implementation tips.

1. Reporting Requirement

There is a new reporting requirement for Principals to report to the cognizant district superintendent by May 30th of each year, removals of students who are on an IEP or Accommodation Plan in excess of 10 cumulative school days in a school year, including expulsions. District Superintendents will report the required information to Area Directors by June 15th of each year, and Area Directors will forward the report to the DoDEA Director by July 1st of each year.

2. Process for Imposing Long-Term Removals

If a Principal proposes a suspension over 10 days or expulsion as a disciplinary action, the district superintendent will be the decision authority after due process is afforded to the accused student(s). For the first time, Area Directors will serve as the first appellate authority for suspensions over 10 days and expulsions, and the Director, DoDEA will remain the final appellate authority.

3. Disciplinary Committee Membership

The new regulation requires that only DoD employees may be members of the Disciplinary Committee, or where a non-DoD employee is proposed, that a school must have the proposed member sign a volunteer agreement in accordance with DoD Instruction 1100.21, "Voluntary Services in the Department of Defense" and explain that the volunteer is required to comply with the Privacy Act.

4. Scope of the Regulation

The new regulation provides that schools have the authority to discipline students for out-of-school conduct directly affecting the school's discipline or general welfare. It also specifies that where First Amendment rights are concerned, substantial disruption to school must result for imposition of a disciplinary action.

5. Removals of Students with Disabilities to an Interim Alternate Educational Setting (AES)

The new regulation clarifies the circumstances under which school personnel may remove a child with a disability to an interim AES for a period up to 45 school days (weapon, drugs, or infliction of serious bodily injury offenses). Note that this authority does not preclude the need to make a manifestation determination.

6. Grounds for Disciplinary Actions

The new regulation updates the grounds for disciplinary actions. For example, adds "bullying (including cyberbullying)" as a ground for disciplinary action.

7. Updates Definitions

For example, the new regulation uses the term "removal" which is "a disciplinary action taken against a student who is suspended, expelled, or placed in an alternate setting, in or out of school."

II. Copyright Law – Reminder.

Since the end of the school year – which is sneaking up quickly – is often filled with band, choir and orchestral concerts, dramatic performances, and the occasional watching of a

movie by a large group of students, the DoDEA Office of General Counsel would like to remind administrators and teachers of the need to respect copyrights in artistic works.

As a general rule, the owner of a copyright has the *exclusive* right to copy, distribute, transmit, and publicly perform their work, or to prepare derivative works based on their material. This means that schools usage of such materials (songs, movies, television shows, plays, etc.) can – and often does— run afoul of the copyright holder’s rights. Thankfully, the copyright laws allow for certain limited exceptions to this general rule, which allow schools to use the works in many of the ways they desire. For instance, there are exceptions which allow for the non-public performance of literary and musical works if certain parameters are met (that there are no fees, admission charges, etc.), or which allow for the limited copying of material for use in face-to-face classroom teaching. However, these exceptions are narrow and complex. As such, if you are planning on using copyrighted material, please contact Assistant General Counsel Brian Berry at HQ (brian.berry@hq.dodea.edu) – he will be happy to help you figure out whether and how you can use the material.

For questions related to any of these matters, please contact your local DoDEA OGC Office:

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