

ARLINGTON BRANCH #7047

NAACP

P.O. Box 4528, Arlington, VA 22204

E-mail: 7047@arlingtonnaacp.com

Phone: 1-877-501-6417

<http://www.arlingtonnaacp.com>

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MEMORANDUM

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TO: Dr. Jeanette Allen
Interim Assistant Superintendent
Department of Administrative Services

FROM: Sherrice Kerns, Second Vice President
and Co-Chair, Education Committee

Symone Walker, Executive Committee, At Large
and Co-Chair, Education Committee

DATE: June 15, 2021

SUBJECT: School Board Policy J-7.4 Student Code of Conduct and Policy Implementation Plan (PIP)

The Arlington NAACP Education Committee recognizes that an opportunity gap exists for significant portions of its student population, namely amongst Black, Indigenous and People of Color (BIPOC) students, English Language Learners, and students with disabilities. We expect APS and the school board to identify and address the causes of disproportionate treatment in discipline, to reduce and eliminate the racial disparities in the use of punitive school discipline, and any other disparities that may exist for other under-served populations.

By this Memorandum, we offer broad recommendations for establishing a new discipline paradigm that centers academic stability and is steeped in fairness, equity, accountability, and data transparency. In addition, we offer specific comments on School Board Policy J-7.4, Student Code of Conduct (SCC), and the corresponding Policy Implementation Procedures (PIP). The SCC and PIP are currently listed on the APS Engage page for public comment and reflecting anticipated Board Action by August 2021. As background, on November 30, 2020, we provided feedback on an earlier version of J-7.4, formerly the *Discipline* policy. We stand by and reiterate the recommendations previously provided that Memorandum, which we are including for your reference.

Notwithstanding the revisions made to the SCC, we remain deeply concerned about the continuing pattern of disproportionate discipline of Black and Latino/Hispanic students and students with disabilities, most recently revealed by APS's [2018-2019 suspension](#) and [2019-2020 suspension](#) data. We expect that this iteration of the SCC policy will admonish schools to enforce disciplinary rules fairly, consistently, and without discrimination.

We recognize the importance of using school and classroom management strategies that keep students in school and in the classroom. Missing too much school for any reason has a direct impact on academic achievement—both short-term and long-term. Exclusion of students from the classroom environment for misbehavior should be avoided to every extent possible. To that end, we expect that APS will provide required professional development as necessary to assist staff in developing consistent classroom management skills, implementing effective restorative practices, eliminating unconscious bias, and establishing cooperative relationships with parents and guardians.

To ensure that discipline is appropriate and equitable, we implore APS to collect and review discipline data that is disaggregated by school, race, gender, status as an English Learner, status as a student with a disability, and type of infraction on a monthly basis. We hope that APS will perform a centralized review of school-level and APS-wide discipline data to measure progress toward the goal of eliminating disproportionate rates of suspension and referral for BIPOC students, and determine whether the site strategies require adjustment to meet the goal. We think that school administrators should meet with teaching staff on at least a quarterly basis to review the school's discipline data and discuss strategies for teaching, encouraging, and reinforcing positive student behavior that do not require engagement with the discipline system and loss of instructional time.

In addition to the foregoing, we offer the following comments and recommendations specific to the draft SCC policy:

- APS needs to develop and adopt a separate restorative practices policy, the framework of which should be incorporated by reference into the SCC and all other school policies involving consequences for student conduct.
- The SCC policy should set the tone for each school to create a safe and positive school environment in which all students feel accepted, supported, and respected. The SCC policy should further APS's mission of serving the whole child and eliminate inequality in the use of punitive consequences.
- The SCC policy should emphasize the use of a positive approach to student behavior and the use of preventative and restorative practices to minimize the need for harsh discipline and maximize instructional time for every student. While the policy mentions restorative practices, the policy is not undergirded by restorative practices since they are not interwoven throughout. Similarly, while

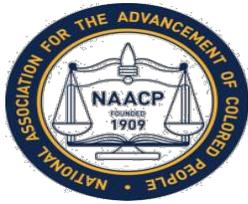
the policy addresses the importance of social and emotional learning, the PIP does not align accordingly, and does not go far enough to emphasize restorative practices as a core tenet.

- The SCC should clearly articulate the requirement of an intervention framework wherein a tiered system of academic and behavioral supports are implemented within classrooms to enable all students to equitably access the core curriculum. The included charts should not be interpreted by teaching staff as discretionary or illustrative examples, but as requirements for facilitating a consistent approach for positive, prosocial behavior management to reduce loss of instructional time, as conditions precedent to each of the listed disciplinary sanctions: Removal from the classroom, in-school suspension, out of school suspension, expulsion.
- With regards to contact with police or administrators for mandatory reportable offenses, the policy does not go far enough to articulate students' Constitutional rights against self-incrimination, especially in the context of accomplice liability, in a robust and unequivocal manner. It should be made clear and explicit that students are not required to answer questions until and unless a parent, guardian, or attorney arrives and advises them accordingly.
- Provide the actual Virginia code language referenced in the section entitled "Arlington Public Schools Limitations on Authority to Impose Sanctions" either directly below, or in an addendum.
- Due process procedures should be cohesively outlined in clear and concise steps in one dedicated section.

Thank you for the opportunity to provide these comments. We appreciate your assistance with providing these comments to the appropriate staff in APS. Please do not hesitate to contact us if you have any questions or would like to discuss further.

Attachment: November 30, 2020 Memorandum

cc: Arlington School Board
Dr. Francisco Durán, Superintendent
Brian Stockton, Chief of Staff
Kimberly Graves, Chief of School Support
Arron Gregory, Chief Diversity, Equity, and Inclusion Officer



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Karen Nightengale, Executive Director
Roy Austin, Assistant Treasurer
Rosa Dunkley, Assistant Secretary

At-Large Executive Committee Members

Tim Dempsey, Jill Caiazzo, Esq.,
James Younger, Esq.

MEMORANDUM

TO: Dr. Jeanette Allen, Interim Assistant Superintendent, Administrative Services
Interim Director, Administrative Services

FROM: Sherrice Kerns and Symone Walker, Co-Chairs
Arlington NAACP Education Committee

CC: Arlington School Board
Dr. Francisco Durán, Superintendent
Brian Stockton, Chief of Staff
Arron Gregory, Chief Diversity, Equity, and Inclusion Officer
Matt Smith, Interim Policy Review Team Lead

DATE: November 30, 2020

SUBJECT: School Board Policy J-7.4 Discipline and
School Board Policy J-7.4 Policy Implementation Plan (PIP)

The Arlington NAACP Education Committee is providing this Memorandum to provide feedback on the above-referenced policy under review. We are particularly concerned about a continuing pattern of disproportionate discipline of Black and Latino/Hispanic students and students with disabilities as revealed by the latest [data](#) from the Office of Civil Rights Report for the 2017-2018 survey year.

School Board Policy J-7.4 Discipline, and the corresponding Policy Implementation Procedures (PIP), are currently listed on the APS Engage website as being up for Board Action by May 2021. By this Memorandum, the NAACP Education Committee is providing the following comments on

the existing version of this policy and applicable PIP, and are intended to offer revisions to the existing PIP consistent with these comments.

- The policy should include a robust statement of students' Constitutional rights against self-incrimination and to wait until their parent or guardian arrives before answering questions.
- The policy should require a mandatory quarterly written report be sent to the School Board providing data on the number of students by age, race, ethnicity, disability and school who are recommended for expulsion, in-school alternative to suspension, and out-of-school suspension during each quarter of the school year, during summer school, and during extended school year for special education services.
- The policy should require a signed statement on or before June 30 of each year from the responsible staff member to the Superintendent and the School Board affirmed that they have reviewed all new state code and applicable regulations, as well as relevant regulations or guidance from federal and state agencies and affirm that the policies and the PIPs conform to the law, or if they do not, propose an expedited timeline for revision prior to the production of the Handbook for the coming academic year.
- The policy should set forth a clear mechanism for restorative practices, i.e., alternatives for formal disciplinary processes with a focus on accountability and redressing harm, to include opportunities for reassessment and reevaluation of the incident and student behavior/participation in academic and community life. Alternatives to traditional discipline processes should be formalized in any new policy and implementation of alternative processes should be documented to ensure equitable application.
- The policy should provide more robust due process, such as a right to an evidentiary hearing before the School Board to address the appropriateness of the proposed discipline in the individual circumstances.
- The policy should explicitly state the student's rights to legal counsel, to call witnesses, and to present evidence. The standards for School Board hearings should not be determined on an ad hoc basis by the Chair, as presently indicated.
- The policy should set forth that when expulsion or long-term suspension of more than 45 days is recommended, a School Board hearing should be a *de novo* evidentiary hearing.
- The policy should include a requirement to provide written notice of any in-school alternative to suspension, out-of-school suspensions, and recommendation for expulsion within a specific period of time. The policy should address notice to the student and the parent or guardian, and require the PIP to specify the following rights in standardized notice letters:
 - i. Alleged disciplinary violation and relevant facts, including whether or not there are witnesses. Written notice of the disciplinary action taken or that might be taken

within a specified period of time that provides an adequate opportunity to appeal the suspension or recommendation for expulsion.

- ii. The right to appeal, deadlines for appeal and required content for an appeal.
 - iii. Name, phone number, e-mail address and physical address of the person to whom an appeal can be filed.
 - iv. If the student has a disability or is suspected of having a disability, the letter should describe their right to return to school or any limitations on that right, the right to a manifestation determination hearing if applicable, and the right to access education, as required by federal and state law.
 - v. When the parent is not proficient in English, the notice letter should be translated into the foreign language known to be spoken in the home.
- The policy should specify that the range of punishments or alternatives to formal discipline permitted for each type of school board violation must be made public to school staff and the community at large on an annual basis, including the treatment of repeated infractions. There are several reasons this is necessary. First, it places the community on notice of how matters should be handled; second, it reflects the values of the school district; and third it makes clear when the discipline falls outside of expectations.
 - The policy should require that disciplinary standards set forth in the PIP and the Handbook avoid using “catch-all” language or allow unfettered discretion, as this creates fertile ground for bias, which plays a role in disproportionality for marginalized students.
 - Language that mimics the criminal justice system, such as “offender” should be eliminated from all documents produced by the school district.
 - The policy should include provision for review and monitoring of disciplinary incidents by the Chief Diversity Equity and Inclusion Officer.
 - The policy should require that whenever a student is removed from their regular instructional setting or program for behavioral reasons, a standardized form must be completed identifying the date and time, the instructional setting or program from which the student is removed, the time of removal, length of removal, the location where the student was taken, the time the student was returned to the regular instruction setting or program or released to the parent, the name(s) of adults present and the reason for the removal. These forms must be maintained, with copies placed in the disciplinary file for each student, and records maintained in a central location at school made available for review by administrators, counselors, social workers, school nurses and psychologists. Data on the number of removals and demographic information about the student should be tracked to identify patterns.
 - The policy should require schools to document using standardized forms for in-school alternative to suspension (e.g., detention, lunch detention), missed school due to the Second Chance Program, and any requirement to come to school outside of school hours for disciplinary reasons.

- The policy should address the lack of transparency of serious discipline matters to the Arlington School Board. Whenever a recommendation for expulsion is made, the School Board should be notified forthwith by a standardized form of the student name, the school name, basic demographic information about the student, and the names of referring school-based staff member(s), witnesses and whether the student has a disability or is suspected of having a disability, whether a criminal investigation is underway or whether any other court involvement is pending, such as a Child In Need of Supervision (CHINS) hearing. The Clerk of the School Board should maintain a record of such matters, and record the final disposition of each matter, to include parental disenrollment from school, parental transfer to another school district or private school not at public expense, homeschool, placement in alternative setting such as New Directions or the 45-day program, evaluation for and/or change of placement in special education, medically certified homebound, hospitalization, house arrest or pre-hearing probation, juvenile detention, adult detention or dropping out. The date that notice is provided to the parent(s) of the rights of the parents and student must be verified.
- The policy should require details be provided on how determinations will be made that force is required, what criteria staff members will use to guide decisions to use force, and the criteria administrators will use to review actions after the fact, as applied to the section “General Discipline,” page 1, referring to the use of physical force.

* * *

Thank you for the opportunity to provide these comments. We appreciate your assistance with providing these comments to the appropriate staff in APS. Please do not hesitate to contact us if you have any questions or would like to discuss further.