DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
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Education Directorate

DoDEA Regulation 2051.1
Date: April 4, 2008

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY
REGULATION

SUBJECT: Disciplinary Rules and Procedures

References: (a) DoDEA Regulation 2051.1, "Disciplinary Rules and Procedures," August 16, 1996 (hereby canceled)
(b) DoD Directive 1342.20, "Department of Defense Education Activity (DoDEA)," November 28, 2005
(c) DoD Instruction 1342.12, "Provision of Early Intervention and Special Education Services to Eligible DoD Dependents," April 11, 2005
(d) DoDEA Regulation 2500.14, "Nondiscrimination and Accomodation on the Basis of Disability in DoDEA Conducted Education Programs and Activities," October 30, 2007
(e) through (l) see enclosure 1

1. REISSUANCE AND PURPOSE

This Regulation reissues reference (a) under the authority of reference (b) to update policy and procedures for disciplinary action for all students enrolled in schools under the Department of Defense Education Activity (DoDEA), including both Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS) and Department of Defense Dependents Schools (DoDDS), and including special rules for students covered by reference (c).

2. APPLICABILITY AND SCOPE

This Regulation:

2.1. Applies to the Office of the Director, Department of Defense Education Activity; the Director, Domestic Dependent Elementary and Secondary Schools, and Department of Defense Dependents Schools, Cuba (DDESS/DoDDS-Cuba); the Director, Department of Defense Dependents Schools, Europe (DoDDS-E); the Director, Department of Defense Dependents Schools, Pacific, and Domestic Dependent Elementary and Secondary Schools, Guam (DoDDS-P/DDESS-Guam); and all DoDEA District Superintendents, School Principals, Teachers, and Support Staff.

2.2. Applies to all students enrolled or participating in, or traveling to or from, programs or activities under DDESS and DoDDS jurisdiction; including home-schooled students who use or receive auxiliary services and/or attend courses/classes/activities in DoDEA schools or settings.

2.3. 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.

3. DEFINITIONS

Terms used in this Regulation are defined in enclosure 2.

4. POLICY

It is DoDEA policy that:

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

4.2. Discipline should be progressively and fairly administered. Disciplinary actions not fully described in this Regulation, such as, but not limited to: verbal reprimands, conferences, detention, time-out, alternative in-school placements, school service programs, community service and counseling programs, and other behavior management techniques should be considered prior to resorting to more formal disciplinary actions that remove a 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).

4.3. Removal from school by placing a student in an alternate educational setting outside of school, or a long-term suspension or an expulsion of a student from school, are extreme disciplinary consequences normally used to modify the undesirable conduct of a student for whom other behavior management techniques and disciplinary actions have proven futile; or when a 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).

4.3.1. Students should be encouraged to perform community service in addition to the removal. The coordination of this community service must include input from the sponsor/parent/guardian and, when appropriate, the community commander or designee.

4.3.2. Students must complete all assignments of work and exams satisfactorily during the period of removal to earn credit.

4.3.2.1. The principal must make suitable arrangements for students who have been removed to ensure they can take necessary examinations.

4.3.2.2. The principal should make alternate examination arrangements for a graduating senior who is scheduled to start post secondary education or whose family is pending a permanent change of station, to minimize interference with those plans.

4.4. Corporal punishment by teachers, principals, or other persons employed by DoDEA is prohibited.

4.5. The grounds for imposing disciplinary consequences are prescribed in enclosure 3.

4.6. Discipline must be administered consistent with the student's behavior management plan, where applicable.

4.7. Disciplinary consequences for students with disabilities shall not be more frequent or severe than for students without disabilities committing the same or similar offenses.

4.8. All regular disciplinary rules and procedures in enclosure 4 apply to students with disabilities who are proposed for minor discipline, including removal to an alternate educational setting or removal from school or the school bus for 10 school days or fewer.

4.8.1. The DoDEA removal procedures for 10 school days or fewer are prescribed in enclosure 4.

4.8.2. The DoDEA procedures for removal for more than 10 consecutive school days are prescribed in enclosure 5.

4.9. Special rules must be followed when a disciplinary consequence for a child with disabilities would result in a change of placement. (See enclosure 6)

4.9.1. The DoDEA discipline procedures for students eligible for special education are prescribed in enclosure 6.

4.9.2. The DoDEA worksheet to determine if misconduct is a result of a student's disability is at enclosure 7.

4.10. Regular educational services required by this Regulation to be provided to a student without disabilities who is removed, must also be provided to a disabled student who is removed.

4.11. Written notices, appeals, documents, and memoranda in support of appeals required or authorized by this Regulation that are to be delivered to a parent/sponsor/guardian, or to the school; may be delivered by sending them home with the student, and/or may be sent to the parent/sponsor/guardian or to the school by mail or by e-mail. If e-mail is used as the notification method to notify the parent/sponsor/guardian, the principal or designee will

telephone to advise him or her that an e-mail has been sent. Written notices may be used in lieu of oral notices when the use of a written notice will expedite the required communication.

4.12. Sample memoranda for sponsors/parents/guardians, and additional guidelines and forms for school bus discipline, are at enclosure 8.

5. RESPONSIBILITIES

5.1. The Director, Department of Defense Education Activity, shall:

5.1.1. Ensure that student discipline is administered fairly, without discrimination; and the discipline is in compliance with the policies and procedures of this Regulation and DoD Instruction 1342.12 (reference (c)) and DoDEA Regulation 2500.14 (reference (d)).

5.1.2. Review the annual report prepared by each DoDEA Area Director concerning removals in excess of 10 cumulative school days in a school year, including expulsions. This report shall be used to establish the presence or absence of potential discrimination.

5.1.3. Ensure that the data in each report shall include the following information consistent with the requirements of references (c) and (d):

5.1.3.1. The number and percentage of children with an Individualized Education Program (IEP) or an Accommodation Plan by race, ethnicity, gender, limited English proficiency status, and disability category who:

5.1.3.1.1. Received a free appropriate public education.

5.1.3.1.2. Participated in regular education.

5.1.3.1.3. Were subjected to long-term removal or expulsions including removal to an alternative educational setting.

5.1.3.2. The incidence, duration, and type of long-term removal.

5.1.3.3. The number and nature of complaints filed with DoDEA under references (c) and (d).

5.1.3.4. The disposition of such complaints.

5.1.4. Serve as the final appellate review authority in cases involving removal for more than 10 consecutive school days.

5.1.5. Direct DoDEA Directors, superintendents, and principals to remove students in accordance with the policies and procedures prescribed in this Regulation and to ensure that any disciplinary decision made concerning a student's disciplinary action is:

5.1.5.1. Supported by a preponderance of the evidence contained in the record; and

5.1.5.2. Delivered promptly to the student and his sponsor/parent/guardian.

5.2. The Director, Domestic Dependent Elementary and Secondary Schools and Department of Defense Dependents Schools, Cuba; the Director, Department of Defense Dependents Schools, Europe; and the Director, Department of Defense Dependents Schools, Pacific and Domestic Dependent Elementary and Secondary Schools, Guam; shall:

5.2.1. Ensure compliance with the provisions of this Regulation.

5.2.2. Exercise first level appellate authority on appeals from disciplinary orders issued by the district superintendents adjudicating a removal from school in excess of 10 days, including expulsion.

5.2.3. Exercise general supervisory control over the administration of school discipline within their Area, ensuring that:

5.2.3.1. Disciplinary procedures are administered consistently with this Regulation.

5.2.3.2. Timelines specified in this Regulation are followed.

5.2.3.3. Administrative proceedings in disciplinary matters are carried out with efficiency and impartiality in accordance with references (c) and (d).

5.2.3.4. Disciplinary consequences are dispensed with reasonable consistency for similar offenses and circumstances.

5.2.3.5. Disciplinary information is maintained in compliance with the DoD Privacy Program, DoD 5400.11-R (reference (e)).

5.2.4. Hold district superintendents accountable for adherence to the standards, policies, and procedures in this Regulation and references (c) and (d).

5.2.5. Coordinate with district superintendents to ensure that theater commanders and the DoDEA community stakeholders are informed and understand the educational benefits of the policies and procedures in this Regulation.

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

5.2.7. Provide to the Director, DoDEA, by July 1 of each year, an annual report of all removal orders issued under their cognizance, reflecting the data elements required by subparagraphs 5.1.2. and 5.1.3 of this Regulation.

5.2.8. Coordinate any implementing guidance with the Office of the DoDEA General Counsel prior to issuance.

5.3. The DoDEA District Superintendents shall:

5.3.1. Serve as the stet appellate authority over all appeals from decisions made by principals (i.e., involving a disciplinary removal of 10 days or less).

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

5.3.3. Forward to the cognizant Area Director, if the district superintendent's decision is appealed, the entire case file; including:

5.3.3.1. All matters provided to and received from the school disciplinary committee.

5.3.3.2. The documentary and physical evidence.

5.3.3.3. The transcript or tape recording or other record of proceedings.

5.3.3.4. The disciplinary committee's recommendations; record of deliberation, if any.

5.3.3.5. The district superintendent's decision.

5.3.3.6. Any additional matters of record.

5.3.4. Advise principals in the appointment and convening of a school disciplinary committee to consider recommendations that a student be removed from school for more than 10 consecutive school days.

5.3.5. Exercise general supervisory control over the administrators of school discipline within the district, as described in subparagraph 5.2.3. of this Regulation.

5.3.6. Coordinate with local military commanders where appropriate in the exercise of school bus discipline; and ensure that procedures described in this Regulation, particularly those that relate to the discipline of students with disabilities, are consistently applied.

5.3.7. Work with commanders and the DoDEA community stakeholders to inform them of the educational benefits of DoDEA's policies and procedures; enlist broad community support for, and cooperation with, school authorities in the sharing of responsibility for exercising school bus and other school-related disciplinary authority consistent with this Regulation.

5.3.8. Provide to the cognizant Area Director, by June 15 of each year, an annual report of all removal orders issued under their cognizance, reflecting the data elements required by subparagraph 5.1.3. of this Regulation.

5.4. The DoDEA General Counsel shall:

5.4.1. Review for legal sufficiency all proposed decisions on appeals that involve a student's removal for more than 10 consecutive school days.

5.4.2. Provide advice and assistance to DoDEA officials in any stage of a disciplinary proceeding.

5.4.3. Advise the Directors, superintendents, and principals on matters affecting the fairness; impartiality; consistency of proceedings; and adherence to the policies of this Regulation.

5.5. The DoDEA Principals shall:

5.5.1. Dispense and exercise general supervisory control over the administration of school discipline within the school, as prescribed in subparagraph 5.2.3 of this Regulation.

5.5.2. Issue a decision in any case where the principal has conducted an informal conference and determined that:

5.5.2.1. A removal for 10 consecutive days or fewer is appropriate, in accordance with the procedures in enclosure 4.

5.5.2.2. The 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.

5.5.3. Consult with the cognizant district superintendent; after which, appoint appropriate members to, and convene, a disciplinary committee. The disciplinary committee shall conduct a hearing and make recommendations to the district superintendent in any disciplinary action in which the principal recommends that a student be removed for more than 10 consecutive school days. (See enclosure 5)

5.5.4. Appear and represent, or designate a member of the school staff to appear and represent, the interests of the school in proceedings before a disciplinary committee.

5.5.5. Forward the case file to the district superintendent in all cases in which:

5.5.5.1. A disciplinary committee makes a recommendation concerning discipline; or

5.5.5.2. The principal's disciplinary decision is appealed to the district superintendent.

5.5.6. Engage the faculty, DoD sponsors/parents/guardians, and students in the development of a comprehensive school disciplinary program consistent with this Regulation. The 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.

5.5.7. Work with commanders and the DoDEA community stakeholders to inform them of the of DoDEA's policies and procedures; enlist broad community support for, and cooperation with, school authorities in the sharing of responsibility for exercising school bus and other school-related disciplinary authority consistent with this Regulation.

5.5.8. Ensure that the student and the sponsor/parent/guardian (even if the student is emancipated) are:

5.5.8.1. Informed of charges against the student and the proposed disciplinary action.

5.5.8.2. Furnished a copy of this Regulation in cases involving possible disciplinary removal.

5.5.9. Ensure that personnel appointed to the school disciplinary committee are DoD employees or volunteers who sign a volunteer agreement in accordance with DoD Instruction 1100.21 (reference (f)). It is important that the disciplinary committee members understand their responsibilities under the DoD Privacy Program (reference (e)), and that the underlying information developed and retained in student files concerning any student disciplinary action is maintained in full compliance with Agency recordkeeping requirements and in accordance with reference (e). This does not prevent disclosure of a particular disciplinary consequence that has been imposed on a particular student for violating a specific provision of the disciplinary code.

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

5.5.11. Ensure that student records accurately reflect the final disposition of disciplinary actions in accordance with reference (e).

5.5.12. Provide to the cognizant district superintendent, by May 30 of each year, an annual report which reflects the data elements required by subparagraph 5.1.3. of this Regulation.

5.6. The DoDEA Teachers and Educational Staff Members shall:

5.6.1. Utilize the range of behavior management techniques, to include the independent exercise of minor disciplinary actions for minor student misconduct. Teachers and other educational staff members (e.g., counselors, nurses), with the consent of the principal, may order in-school removals when appropriate to the needs of the student and his or her disruptive behavior.

5.6.2. Ensure that, in cases where teachers utilize the range of behavior management techniques cited in subparagraph 5.6.1. of this Regulation, the student knows the nature of his or her misconduct and understands why the disciplinary action is being imposed. When there is a doubt about the culpability of persons involved in misconduct, or there is some possibility of mitigating circumstances, the educational staff member administering discipline should provide an opportunity for the student facing a disciplinary action to express his or her reasons for the alleged misconduct.

5.7. The DoDEA Students:

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

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

5.7.3. May appeal a disciplinary decision, as follows:

5.7.3.1. Appeals Not Involving Removal. Appeals from disciplinary actions imposed by a teacher or a principal that do not involve removing a child from the school are resolved through a conference (informal hearing) between the sponsor/parent/guardian and the teacher or principal in accordance with subparagraph E4.6.1.

5.7.3.2. Appeals Involving Removal for 10 Consecutive School Days or Fewer. A principal's decision of removal for a period of 10 consecutive school days or fewer may be appealed to the district superintendent. No further appeal is authorized.

5.7.3.3. Appeals Involving Removal for More Than 10 Consecutive School Days. A district superintendent's decision of removal for a period of more than 10 consecutive school days, including expulsion, may be appealed to the cognizant Area Director and then to the Director, DoDEA.

6. EFFECTIVE DATE

This Regulation is effective July 1, 2008.

Joseph D. Tafoya
Director

Enclosures - 8

E1. References
E2. Definitions
E3. Grounds for Disciplinary Actions
E4. Procedures for Imposing Disciplinary Action, Including Removal Up to 10 School Days
E5. Procedures for Removal Over 10 School Days, Including Expulsion
E6. Modified Procedures for the Administration of Discipline to Children/Students with Disabilities
E7. Worksheet for Conducting a Manifestation Determination Review
E8. Student School Bus Behavior Management Policy

E1. ENCLOSURE 1

REFERENCES continued

(e) DoD 5400.11-R, "Department of Defense Privacy Program," May 15, 2007
(f) DoD Instruction 1100.21, "Voluntary Services in the Department of Defense," March 11, 2002
(g) Section 863 of title 21, United States Code, Drug Paraphernalia.
(h) Section 812 of title 21, United States Code, Schedules of Controlled Substance
(i) Section 921 (a)(3) of title 18, United States Code, Definitions
(j) Section 930(g)(2) of title 18, United States Code, Dangerous Weapon
(k) Section 1365(h)(3) of title 18, United States Code, Serious Bodily Injury
(l) Section 1400 et. seq. of title 20, United States Code, Individuals with Disabilities Education Improvement Act of 2004

E2. ENCLOSURE 2

DEFINITIONS

E2.1. Accommodation Plan. A written plan specifying the nature of the student's disability and the major life activity(ies), it 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 student's progress will be determined.

E2.2. Alternate Educational Setting (AES). A location in or out of school determined by school authorities as the appropriate learning environment for a student because of learning or behavioral issues.

E2.3. Ameliorate. To make or become better, to improve.

E2.4. Behavior Management Plan. A plan for any student (disabled or nondisabled) that provides positive reinforcement for student behaviors intended to deter inappropriate or negative student behavior. The plan may include consequences for misbehavior.

E2.5. Case Study Committee (CSC). In accordance with DoD Instruction 1342.12 (reference (c)), a school-level multidisciplinary team comprised of, among others, an administrator or designee who is qualified to supervise or provide special education, one or more of the student's regular education teachers, one or more special education teachers, sponsor/parent/guardian, and related service providers (if appropriate).

E2.6. Child/Student with a Disability. Any student age 3 through 21 inclusive, before graduation from high school or completion of the General Education Degree, who a Case Study Committee (CSC) has determined has one or more impairments and qualifies for special education and related services.

E2.7. Corporal Punishment. Physical punishment inflicted on the body of a student by an educator or administrator, typically as a means of discipline.

E2.8. School Day. Any day, including a partial day, that children are in school for instructional purposes...including children with and without disabilities.

E2.9. Director. The Director, DoDEA, unless specified as the director of another designated organizational subdivision of DoDEA (e.g., Director, DoDDS-E).

E2.10. Disciplinary Committee. A school committee comprised of school officials and installation/community representatives who are DoD employees. Non-DoD employees may be included on the disciplinary committee if the non-DoD member executes a voluntary services agreement as prescribed by DoD Instruction 1100.21 (reference (f)), and is briefed on protecting student privacy. The disciplinary committee meets to consider disciplinary matters in which removal in excess of 10 school days, including expulsion, has been recommended by the principal.

E2.11. 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 U.S. federal law. (See section 863 of 21 U.S.C. (reference (g)).

E2.12. Expulsion. The removal of a student from school for the remainder of a semester, or for a school year, or where misconduct leading to expulsion occurs during the last 6 weeks of the school year, or for 1 year when the expulsion action is taken with respect to a firearm violation; the expulsion may be extended to the end of the first semester of the following year.

E2.13. 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 (reference (i)).

E2.14. Formal Hearing. The process by which the school disciplinary committee reviews the evidence and affords both the school and the student accused of misconduct (and his or her sponsor/parent/guardian) an opportunity to address the allegations of misconduct and the proposed disciplinary action. Formal hearings afford certain due process rights to the student accused of misconduct when the proposed disciplinary action involves removal for more than 10 consecutive school days. These rights include:

E2.14.1. Notice of the allegations and proposed disciplinary action in writing prior to the hearing.

E2.14.2. The opportunity to:

E2.14.2.1. Present a defense in the form of witnesses and/or documentary evidence at the hearing.

E2.14.2.2. Have a representative at the hearing.

E2.14.2.3. Request that relevant questions be asked of witnesses at the hearing.

E2.14.3. A recommended decision made by the disciplinary committee, written findings of fact, a decision by the district superintendent furnished to the accused.

E2.14.4. A right of appeal to the cognizant Area Director, and the Director, DoDEA.

E2.15. Individualized Education Program (IEP). A written document defining specially-designed instruction for a student with a disability, ages 3 to 21, inclusive, developed and implemented in accordance with DoD Instruction 1342.12 (reference (c)).

E2.16. Informal Hearing (e.g., conference). Prior to imposing a disciplinary consequence, if possible, without compromising school safety, or as soon as possible after imposing a

consequence; the principal or teacher should conduct an informal conference with the student to ensure that the proper student is being disciplined, that he or she knows why the disciplinary action is being taken, and to afford the student a chance to explain his or her involvement in the alleged misconduct.

E2.17. Illegal/Controlled Substance. 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 863 of 21 U.S.C. (reference (g)), or host nation law; and 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). A substance legal in the host nation, but illegal and/or controlled by section 812 of 21 U.S.C. (reference (h)), is an illegal or controlled substance under this Regulation.

E.2.18. Preponderance of the Evidence. Preponderance of evidence refers to proof that leads the decision maker to find the existence of the fact in issue is more probable than not.

E2.19. Principal. One who holds presiding rank in the school. A principal authorized by this Regulation to take particular disciplinary action includes an assistant principal or any other educator to whom the principal has delegated authority to administer discipline on behalf of the principal.

E2.20. Removal. A disciplinary action taken against a student who is suspended, expelled, or placed in an alternate setting, in or out of school.

E2.21. 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 18 U.S.C. (reference (k)).

E2.22. Special Education. Specially designed instruction and related services that a student, ages 3 through 21, inclusive, receives when a school Case Study Committee determines a student qualifies pursuant to the requirements of DoD Instruction 1342.12 (reference (c)).

E2.23. Substance Abuse. Includes using, possessing, selling, dispensing, or being under the influence of illegal/controlled substances or alcohol. This includes the unauthorized use of otherwise legal substances. (See paragraph E2.17).

E2.24. Suspension. Removal of a student from classes or school for any period short of expulsion. Suspensions may be in-school or out-of-school. Suspensions from school are not to exceed 10 consecutive school days without a formal hearing.

E2.25. Weapons. Weapons are items carried, presented, or used in the presence of other persons with the intent of threatening or harming any individuals, or that are capable of causing death or serious bodily injury (section 930(g)(2) of 18 U.S.C. (reference (j)). They include, but are not

limited to: guns, ammunition, knives, 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 to, or used in a manner to, either inflict or threaten to inflict serious bodily injury or instill fear (e.g., replica/look-alike gun, baseball bat, laser pointer, letter opener, etc.). (See section 1365(h)(3) of 18 U.S.C. (reference (k))

E3. ENCLOSURE 3

GROUNDS FOR DISCIPLINARY ACTIONS

E3.1. General. This enclosure describes student conduct warranting disciplinary action or consequence and provides guidance as to the seriousness of offenses. However, this Regulation does not list every offense nor does it dictate the seriousness of any particular offense. Instead, it describes categories of conduct with sufficient specificity to inform the student of the type of conduct that may result in disciplinary consequence and is intended to alert principals to their flexibility in assessing the seriousness of offenses for purposes of determining the appropriate consequence. Disciplinary sanctions may be imposed for student conduct:

E3.1.1. While on school property.

E3.1.2. While en route between school and home or any school activity.

E3.1.3. While on vehicles owned by the Government or contracted by DoDEA schools for the transport of students.

E3.1.4. During the lunch period on a school day, whether on or off campus.

E3.1.5. During or while going to or from all school-sponsored or school-supervised events/activities that affect the missions or operations of the school or district including field trips, sporting events, stadium assemblies, and evening school-related activities.

E3.1.6. When the good order, safety, or welfare of the 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 substantial disruption to the school.

E3.2. School Bus Discipline. Rules of student behavior and disciplinary procedures prescribed in enclosure 8 that are applicable to students en route by DoD-sponsored school buses between home and school and/or school-sponsored events and activities. The school has the discretion to process disciplinary actions for school bus infractions solely within the context of procedures prescribed in enclosure 8, or as a part of school discipline generally. Disciplinary action that might affect a student's special education program must be processed under the disciplinary procedures for students with disabilities. (See enclosure 6)

E3.3. Additional Guidance at the School/District Level. In addition to this guidance, individual schools; school districts; or directorates may promulgate student policies/manuals that implement the procedures of this Regulation subject to prior coordination in accordance with subparagraph 5.2.8. of this Regulation.

E3.4. Discipline for Minor or First Offenses. A 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/guardian, time out, teacher/student/ conferences, suspension of school or extracurricular privileges, and by any other

teacher intervention deemed by the teacher or principal to be appropriate. Minor offenses include any conduct that is not conducive to the good order and discipline of the school. Examples of conduct for which minor discipline may be appropriate include, but are not limited to: tardiness, unexcused absence, chewing gum or eating food in class, running or horseplay in the halls or classrooms, use of offensive language; disrupting the class by talking, laughing, or wandering about when the 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 student engages in repeated or multiple acts of misconduct and the teacher or principal determined that the nature of the offense, in the context of all circumstances, warrants a more severe consequence than contemplated by this paragraph. Grade (score) reduction as a disciplinary action is not an appropriate means of discipline.

E3.5. Grounds for Removal. A student may be disciplined, to include removal from school (i.e., suspension, expulsion, or out of school placement) in appropriate circumstances; when a preponderance of the evidence demonstrates that the student has engaged in any of the following acts of misconduct:

E3.5.1. Causing, attempting to cause, or threatening to cause, physical injury to another person; or has threatened to use or has used physical force against any person, including physical force that causes serious bodily injury to a person, as defined by section 1365(h)(3) of 18 U.S.C. (reference (k)).

E3.5.2. Possessing, using, or transferring to another person any dangerous weapon (section 930(g)(2) (reference (j)), (e.g., any firearm, knife, explosive, incendiary device, or dangerous object) at the school or at a school-sponsored activity. A minimum 1-year expulsion is required for the possession of firearms.

E3.5.3. Possessing, using, distributing, or the attempted possession; use; or distribution of alcoholic beverages.

E3.5.4. Possessing or using tobacco, or any product containing tobacco or nicotine products; including, but not limited to: cigarettes, cigars, miniature cigars, clove, smokeless tobacco, snuff, chew packets, and betel nut.

E3.5.5. Possessing, using, distributing, or the attempted possession; use or distribution of any illegal/controlled substance; as defined in enclosure 2. A mandatory expulsion recommendation is required for a second offense.

E3.5.6. Offering, arranging, using, or negotiating to sell drug paraphernalia, or the unlawful possession of drug paraphernalia.

E3.5.7. Robbing or extorting, or attempting robbery or extortion.

E3.5.8. Damaging or vandalizing school, U.S. Government, contractor, or private property.

E3.5.9. Stealing, wrongfully appropriating, or attempting to steal or wrongfully appropriate; or knowingly receiving stolen school, Government, contractor, or private property.

E3.5.10. Committing any lewd, indecent, or obscene act; or engaging in habitual profanity or vulgarity.

E3.5.11. Disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other 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 school personnel, violation of the school honor code, and/or the violation of other rules and guidance established for an orderly educational atmosphere.

E3.5.12. Failing to leave the school, the school grounds, the school bus, or otherwise failing to follow the instructions/directions of the principal 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 removed).

E3.5.13. Gambling in any form.

E3.5.14. Fighting or otherwise engaging in conduct that endangers the well-being of a student or others.

E3.5.15. Bullying (including cyber bullying) another, or a group (e.g., engaging physical intimidation, taunting, hazing, name calling, insulting, cursing, gesturing, or verbally abusing any person; including, but not limited to: comments, abuse, or harassment based on that person's race, religion, gender, creed, national origin, personal or physical attributes, disability, intellectual ability; and matters pertaining to sexuality, or characteristics of another person or the associates of another person).

E3.5.16. Using portable communications devices contrary to school policy (e.g., beepers, cell phones, personal computers, BlackBerrys; other similar devices capable of receiving or transmitting audio, video, picture, or text message; portable electronic devices, including: cameras, electronic games, portable radios, compact disc players, iPods, portable DVD players, or similar devices). Such equipment and devices are subject to confiscation by school authorities.

E3.5.17. Engaging in, or attempting to engage in, acts of arson, making a threat to bomb, burn, or destroy in any manner a school building or school property, or intentionally making a false report of a bomb threat or fire (e.g., making a terrorist or bomb threat, pulling a fire alarm, etc.).

E3.5.18. Forging, cheating, or plagiarizing the work of others.

E3.5.19. Possessing or using fireworks or other explosive devices.

E3.5.20. Violating attendance regulations or policies (i.e., truancy).

E3.5.21. Violating the terms and conditions of the DoDEA Student Computer and Internet Access Agreement, or by illegal or unauthorized means gain access to the computers, software telecommunications, and related technologies of others; engage in any willful act that causes physical or financial damage or otherwise disrupts information technology, or use a computer or communications device to communicate threatening, harassing, indecent messages; or download obscene or pornographic materials.

E3.5.22. Violating any law, rule, regulation, or policy of the military installation or the school.

E3.5.23. Failing to report or otherwise be complicit in the above-described acts.

E3.6. Notice to Law Enforcement Authorities. The principal of the school shall notify the Installation Commander, or his or her designee for law enforcement or legal affairs, of any acts that may violate local laws or any situations that may pose a threat to the safety or security of the installation.

E3.7. Confiscation of Property. Authorized school officials may immediately confiscate any property belonging to, or in the possession of, any student if the possession or use of that property is inconsistent with the conduct required by this Regulation, or good order and discipline. Unless possession of the item is illegal or dangerous, the confiscating official will return the property to the rightful owner or the student's sponsor 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 is accomplished to preserve health and safety, or to provide evidence incidental to the exercise of disciplinary action.

E4. ENCLOSURE 4

PROCEDURES FOR IMPOSING DISCIPLINARY ACTION, INCLUDING REMOVAL UP TO 10 CONSECUTIVE SCHOOL DAYS

E4.1. General Applicability. The provisions of this enclosure apply to all students, including students with disabilities when consistent with the provisions of enclosure 6 of this Regulation.

E4.2. Educator Responsibilities. Principals, teachers, and other educational staff have the responsibility to exercise disciplinary control over their classrooms and the student(s) under their supervision in a fair and impartial manner in accordance with the procedures specified in this Regulation. They are authorized to enforce discipline by teaching students that consequences flow from inappropriate behavior.

E4.3. Teacher Authority to Discipline. Actions available to a teacher include, but are not limited to: reprimand, time-out, assignment to particular study carrels, notice to and conference with sponsor/parent/guardian, extra work, detention, and any other practice that is reasonable and does not involve removal or otherwise violate this Regulation.

E4.3.1. A teacher may require a student to leave the classroom and go to the principal's office or another setting for a class period, or a day, in order to preserve discipline, while the matter is reported to the principal.

E4.3.2. Removal of a student from class or school for a period up to 10 consecutive school days may be recommended by the teacher, but only the principal or designee may initiate or impose a disciplinary action resulting in such a removal.

E4.4. Principal's Authority to Remove (Suspend). The principal may remove a student and/or revoke or suspend a student's privilege of participating in any school-related activity or extracurricular event (e.g., sports, school dances, graduation exercises, field trips, etc.) for any of the reasons set forth in enclosure 3, for no more than 10 consecutive school days.

E4.5. Informal Conference. When exercising discipline under this enclosure, the principal or teacher must conduct an informal conference with the student. The purpose of the conference is to ensure that the proper student is being disciplined, the alleged infractions actually occurred, the student has the opportunity to give his or her side of the incident, and the student knows why he or she is being disciplined. This informal conference generally will occur immediately upon notifying the student that he or she is being considered for discipline. All necessary fact gathering will be accomplished immediately; perhaps during the informal conference. The principal or teacher must determine from the evidence available that a preponderance of the evidence requires the imposition of a consequence.

E4.5.1. Notice to the Student and Student Rights When Removal From School Is Not an Issue. The principal or teacher shall:

E4.5.1.1. Advise the student why disciplinary action is being taken against the student.

E4.5.1.2. Summarize the information that the teacher or principal is relying upon to conclude that the accused student committed an act described in enclosure 3.

E4.5.1.3. Afford the student, or his or her sponsor/parent/guardian, the opportunity to explain the alleged misconduct, and to present evidence that supports the student's explanation that the student has not committed an act as set forth in enclosure 3.

E4.5.2. Fact-finding and Decision. The principal or teacher shall:

E4.5.2.1. Make any reasonable inquiry necessary to resolve the questions of the student's culpability or mitigation and to make a determination whether a consequence is necessary or appropriate.

E4.5.2.2. Announce to the student the finding as to whether the student committed an act set forth in enclosure 3.

E4.5.2.3. Inform the student as to the disciplinary consequences, if any, that are being imposed.

E4.5.2.4. Advise the student of the appeal procedures, as described in paragraph E4.6. of this enclosure.

E4.5.3. Notice Required Upon Removal (regardless of the age of the student). Upon deciding that a student will be removed, the principal or designee shall:

E4.5.3.1. Contact the student's sponsor/parent/guardian in person or by telephone and advise the sponsor/parent/guardian of the removal; and

E4.5.3.2. Notify the student's sponsor/parent/guardian in writing of the removal by sending a copy of the notice home with the student and by mailing or e-mailing to the sponsor/parent/guardian a copy of same, generally within one school day of the decision. If e-mail is used as the notification method, the principal or designee shall call the student's sponsor/parent/guardian to ensure he or she knows that an e-mail notice was sent. The notice shall include:

E4.5.3.2.1. A statement of facts leading to the decision to remove the student.

E4.5.3.2.2. A statement that the student is to remain away from school, school grounds, and/or activities under the jurisdiction of the school during the period of removalunless given written authorization by the principal to be present.

E4.5.3.2.3. The date and time the student is authorized to return to school.

E4.5.3.2.4. A request that the sponsor/parent/guardian attend a conference with school officials regarding the student's behavior.

E4.5.3.2.5. Notice of the appeal procedures by which the student may appeal the removal.

E4.6. Appeals.

E4.6.1. Appeals Not Involving Removal. Appeals from disciplinary actions imposed by a teacher or a principal that do not involve removing a child from the school are resolved through a conference (informal hearing) between the sponsor/parent/guardian and the teacher or principal.

E4.6.1.1. The request for a conference must be submitted orally or in writing to the teacher or principal, whoever imposed the discipline, within 5 days of the imposition of the discipline.

E4.6.1.2. The teacher or principal promptly shall hold a conference with the sponsor/parent/guardian.

E4.6.1.3. The teacher or principal shall issue a decision, oral or written, within 10 days of holding a conference.

E4.6.1.4. The sponsor/parent/guardian may request a further conference with the principal, if the conference is held by the teacher without the principal. The principal is the final appellate authority for discipline not involving removal from the school; whether the discipline is imposed by a teacher or the principal.

E4.6.2. Appeals Involving Removal for 10 Days or Fewer.

E4.6.2.1. A student disciplined under this enclosure may file a written appeal of the disciplinary action within 5 school days of the imposition of discipline with the district superintendent (appellate authority). The sponsor/parent/guardian/student must simultaneously provide a copy of his or her appeal to the principal who imposed the removal.

E4.6.2.2. The student/sponsor/parent/guardian or the school may present new or previously undiscovered documentary evidence as long as the document is provided to the other party.

E4.6.2.3. The principal shall forward a copy of the record developed in the disciplinary proceedings to the superintendent upon notice an appeal has been filed.

E4.6.2.4. The appeal must describe in full detail why the discipline assessed is inappropriate.

E4.6.2.5. The appeal to the district superintendent is a paper review, affording no party the right to be present or to make oral arguments.

E4.6.2.6. The district superintendent will issue the student/sponsor/parent/guardian a final written decision. No further appeal is authorized.

E4.6.2.7. The school need not defer the imposition of any disciplinary consequence pending the appeal, particularly when the discipline is being taken to protect students or to prevent disruption in the classroom.

E4.6.3. If the basis for the disciplinary action or the disciplinary consequence is reversed on appeal, all records of a student having being disciplined shall be removed from the student's disciplinary file, and notice will be sent to the student's sponsor/parent/guardian to disregard the prior notice of removal and to remove and destroy such prior notices.

E5. ENCLOSURE 5

PROCEDURES FOR REMOVAL OVER 10 CONSECUTIVE SCHOOL DAYS, INCLUDING EXPULSION

E5.1. General Applicability. The following procedures apply in cases where the principal, or designee, determines that a removal for more than 10 consecutive school days, including expulsion, may be warranted and the student is not eligible for or receiving special education services (requiring processing in accordance with enclosure 6). The procedure for a removal in excess of 10 consecutive school days requires a formal hearing before a school disciplinary committee and a decision by the district superintendent. Prior to proceeding with any disciplinary action at this level, it is incumbent upon the school administrator to assess the severity or seriousness of the incident; the student's age, past history, and ensure the disciplinary action being pursued is appropriate for the offense.

E5.2. Notice of Proposed Removal for Over 10 School Days (Including Expulsion).

E5.2.1. The principal will immediately notify the student and the student's sponsor/parent/ guardian in writing of the proposed discipline (removal in excess of 10 consecutive days to expulsion).

E5.2.2. The notice shall:

E5.2.2.1. 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.

E5.2.2.2. Identify the specific proposed punishment (e.g., out-of-school removal for over 10 days, loss of extracurricular activity privilege for over 10 days, immediate removal for over 10 days pending disciplinary committee review, etc.) to be considered by the disciplinary committee.

E5.2.2.3. Provide a copy of this Regulation.

E5.2.2.4. 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 principal in consultation with the sponsor/parent/guardian.

E5.2.2.5. State the right of a student/sponsor/parent/guardian to waive a hearing.

E5.2.2.6. State the right of the student to be represented by the sponsor/parent/guardian, legal counsel or other representative in a hearing before the disciplinary committee.

E5.2.2.7. 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.

E5.2.2.8. State the school administration's right to present evidence, call witnesses, and be represented by counsel or other representative.

E5.2.2.9. State the procedures that the student may exercise to appeal any determination the student believes is adverse to his or her interests.

E5.3. Procedures for Appointing the School Disciplinary Committee. In consultation with the district superintendent, the principal:

E5.3.1. Will appoint a school disciplinary committee at the start of each school year, or whenever reasonably practicable thereafter. The disciplinary committee shall be composed of an odd number of members (not less than 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 reference (f), and received instruction in protecting student privacy.

E5.3.2. Shall ensure that representation on the committee is heterogeneous and that no group has disproportionate membership: The school disciplinary committee membership may be from any combination of the following groups, as appropriate:

E5.3.2.1. School administrator(s) from another school or the district.

E5.3.2.2. Member(s) of the school board, school, or Installation Advisory Committee, school improvement committee, etc.

E5.3.2.3. Representative(s) from the installation command with the concurrence of the Commander or his or her designee.

E5.3.2.4. Educator(s) or community member(s) with special expertise of benefit to the committee (e.g., background in special education, behavior management, etc.).

E5.3.3. 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 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 principal determines that the member has a potential conflict of interest.

E5.3.4. Shall disqualify any member of the disciplinary committee who has a personal relationship with any student or the sponsor/parent/guardian of any student brought before the disciplinary committee.

E5.3.5. Will ensure the disciplinary committee takes no disciplinary action involving a student with disabilities unless and until a CSC has determined, pursuant to the procedures in enclosure 6, that further action by the disciplinary committee is appropriate.

E5.3.6. Will obtain a signature on a voluntary services agreement prescribed by reference (f) for any member of the 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 student appearing before the disciplinary committee.

E5.4. Hearing Procedures.

E5.4.1. The principal shall:

E5.4.1.1. Convene the disciplinary committee to conduct a hearing promptly after the principal decides to recommend a disciplinary action involving removal from the school for a period in excess of 10 days.

E5.4.1.2. Appoint or allow the disciplinary committee to elect a member of the committee to serve as its chairperson to manage the hearing.

E5.4.1.3. Appear and represent or appoint the assistant principal or another administrator to appear and represent the interests of the school before the disciplinary committee.

E5.4.1.4. Ensure that a record is made regarding the matters presented at the school disciplinary hearing by furnishing the disciplinary committee with a tape recorder or a court reporter to record the proceedings. If a tape recorder is used, at least two copies of the tapes shall be made; with one being presented to the student facing discipline, immediately after the conclusion of the hearing.

E5.4.1.5. Promptly send the record of the disciplinary committee; including the evidence, the written decision, and any notes or deliberations, to the district superintendent for a decision.

E5.4.2. Disciplinary Committee/Chairperson Duties. The chairperson rules on objections and requests from parties at the hearing and ensures that:

E5.4.2.1. The student, sponsor/parent/guardian, student's representative, and the school's administration or representatives are afforded an opportunity to present evidence in the form of witnesses and/or documentation.

E5.4.2.2. No member of the disciplinary committee is a witness in the disciplinary proceeding.

E5.4.2.3. The hearing proceeds in an orderly and timely manner.

E5.4.2.4. The committee meets in closed session (not transcribed or taped) to determine appropriate findings of fact, and recommend appropriate action; as determined by the majority of the members. The committee meets after it has provided all parties a sufficient opportunity to be heard.

E5.4.2.5. The committee prepares a written report of its findings of fact and its recommendations on disposition, including any relevant attachments, and forwards it to the district superintendent.

E5.4.2.6. The 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 committee's deliberations and recommendation.

E5.4.2.7. The committee is mindful of the requirements to protect Privacy Act information in accordance with (reference (e)).

E5.5. Deciding Official (District Superintendent).

E5.5.1. The district superintendent, after review and consideration of the recommendation of the disciplinary committee, promptly prepares and delivers to the 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 student.

E5.5.1.1. The district superintendent's written decision may agree or disagree with the disciplinary committee's findings of fact and /or the recommendations concerning disciplinary action.

E5.5.1.2. The district superintendent may disagree with the disciplinary committee's findings of fact or recommendation concerning disciplinary action; however, the district superintendent shall ensure that his or her decision explains the basis for the disagreement.

E5.5.2. There is no requirement for the district superintendent to attend the disciplinary committee hearing; however, the district superintendent or his or her designee may attend the hearing if feasible.

E5.6. First Level Appellate Authority (Area Director).

E5.6.1. The student or his or her representative has five school days from the date of receipt of the district superintendent's decision to appeal the decision by writing to the Area Director, with a copy to the district superintendent; explaining/arguing 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 district superintendent's findings of fact, the disciplinary consequence, or both.

E5.6.2. If the student, or his or her representative, appeals the decision, the district superintendent forwards the case file upon receipt of a copy of the appeal to the Area Director. The case file includes the hearing tapes and/or transcript, all memoranda, exhibits, documentary evidence, and any arguments or other written submissions prepared by the student and his or her

sponsor/parent/guardian/ representative. In addition, the student's school records are always reviewable by the deciding official.

E5.6.3. The Area Director will review the case file as expeditiously as possible, normally within 10 business
days of the receipt of the hearing record, and render a decision in writing.

E5.7. Second Level (Final)Appellate Authority (Director, DoDEA).

E5.7.1. The student or his or her representative have five school days from the date of receipt of the Area Director's decision to appeal the decision in writing to the Director, DoDEA, with a copy to the Area Director, explaining/arguing 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 Area Director's findings of fact, the disciplinary consequence, or both.

E5.7.2. If the student appeals the decision, the Area Director forwards the case file to the Director, DoDEA, upon receipt of a copy of the appeal. The case file includes the hearing tapes and/or transcript, all memoranda, exhibits, documentary evidence, and any arguments or other written submissions prepared by the student and his or her sponsor/parent/guardian/ representative.

E5.7.3. The Director, DoDEA, will review the case file as expeditiously as possible, and render a decision in writing, normally within 10 business days of the receipt of the hearing record.

E5.7.4. The Director, DoDEA, will issue his or her written decision on an appeal as soon as practicable, normally within 10 days of receipt of the appeal/case file.

E5.8. Other Considerations.

E5.8.1. No student who has been expelled or suspended pursuant to this enclosure may enroll in any other school within DoDEA without express authorization of the district superintendent from the school that administered the discipline and the district superintendent of the new school.

E5.8.2. The suspension or expulsion will not be stayed pending the outcome of the disciplinary hearing process.

E5.8.3. The term of an expulsion should not extend beyond the end of the current school year, except when:

E5.8.3.1. The violation is a firearm violation.

E5.8.3.2. The misconduct leading to expulsion occurs during the last 6 weeks of the school year, in which case the expulsion may be extended to the end of the first semester for the following year.

E5.8.4. Students expelled from DoDEA will be provided the opportunity to obtain academic counseling at the closest DoD school. The principal will identify appropriate correspondence courses or other appropriate educational programs for the duration of the expulsion. If the principal determines that correspondence courses are the most appropriate method of affording educational services during the expulsion, they will be provided at DoDEA's expense for students who are eligible or space-required; however, the sponsor/parent/guardian must bear the expense for a student who is space–available or otherwise not eligible.

E6. ENCLOSURE 6

MODIFIED PROCEDURES FOR THE ADMINISTRATION OF DISCIPLINE TO CHILDREN/STUDENTS WITH DISABILITIES

E6.1. Applicability. The rules in this enclosure modify the rules in enclosure 5 and must be followed when a student with disabilities, as defined under reference (c), is proposed for disciplinary action that would change the student's placement.

E6.2. Change of Placement

E6.2.1. It is a change of placement if a child with disabilities is removed from his or her current placement for more than 10 consecutive school days.

E6.2.2. A change of placement may result after a student has been removed for 10 cumulative days in a school year if the CSC determines, after considering the following circumstances, that the student with disabilities has been subjected to a series of removals that constitute a pattern:

E6.2.2.1. The series of removals total more than 10 school days in a school year.

E6.2.2.2. The student's behavior is substantially similar to his or her behavior in previous incidents that resulted in the series of removals.

E6.2.2.3. The length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

E6.2.3. A change of placement determination is subject to review by a hearing officer in accordance with the provisions of enclosure 9 of reference (c).

E6.3. Notification of Change of Placement. On the date the decision is made to make a removal that constitutes a change of placement for a child with a disability because of a violation of a code of student conduct, the school must notify the parents of that decision, and provide the parents the procedural safeguards notice described in reference (b).

E6.4. Period of Removal: School personnel may remove a child with a disability who violates a DoDEA code of student conduct from his or her current placement to an appropriate interim alternative educational setting (AES), another setting, or suspension:

E6.4.1. For not more than 10 consecutive school days; to the extent those alternatives are applied to children without disabilities.

E6.4.2. For additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct; as long as those removals do not constitute a pattern under subparagraph 6.2.2.

E6.4.3. Special Circumstances: School personnel may remove a child with a disability to an interim AES for a period up to 45 school days; if the student:

E6.4.3.1. Carries a weapon to school, or possesses a weapon.

E6.4.3.2. Possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance.

E6.4.3.3. Inflicts serious bodily injury upon another person.

E6.4.4. Extended Removal by Hearing Officer. In other circumstances when school personnel believe that returning the student to his or her current educational placement is substantially likely to cause injury to the student or to others, the school should contact the DoDEA Office of the General Counsel, petitioning for an expedited hearing before a hearing officer who is empowered to remove the student to an interim AES for up to 45 school days.

E6.5. Services Required During Removal.

E6.5.1. If a student with a disability is removed from his or her placement for 10 cumulative school days or less in a school year, the school is required only to provide services comparable to the services it provides to a student without disabilities who is similarly removed.

E6.5.2. If a student with a disability is removed from his or her placement for more than 10 consecutive or cumulative school days, the student must:

E6.5.2.1. Continue to receive educational services, to enable the student, although in another setting, to continue participating in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.

E6.5.2.2. Receive, as appropriate, a functional behavioral assessment, behavioral intervention services, and modifications designed to address the behavior violation so that it does not recur.

E6.5.3. Once a student with a disability has been removed for more than 10 cumulative school days within a school year, the next time the student is proposed to be removed for disciplinary reasons, the CSC must determine whether the pattern of removals constitutes a change of placement.

E6.5.3.1. If the CSC determines the removals do not constitute a pattern, and the pending removal is not a change of placement, then the CSC determines the extent to which services are needed to enable the child 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.

E6.5.3.2. If the CSC determines that there is a pattern of removals that constitutes a change of placement, then the CSC must conduct a manifestation determination.

E6.5.4. If, during the period of removal the student enrolls in an alternate educational program at personal expense, or a DoDEA sponsored correspondence program; DoDEA will provide services required by the IEP at the alternate educational setting established by DoDEA.

E6.6. Manifestation CSC Determination Required.

E6.6.1. A principal must give the notice required by reference (b) and convene a manifestation determination meeting with the CSC; consisting of the school, the parent, and relevant members of the child's CSC as determined by the parent and the school:

E6.6.1.1. Within 10 school days of making a disciplinary decision that would remove a student with disabilities for more than 10 consecutive school days; or

E6.6.1.2. For a period in excess of 10 cumulative school days when the student has been subjected to a series of removals that constitute a pattern.

E6.6.2. The manifestation CSC will review all relevant information in the student's file (including the IEP, any teacher observations, and any relevant information provided by the sponsor/parent/guardian) to determine whether the misconduct was a manifestation of the student's disability.

E6.7. CSC Determination that Misconduct Did Not Result from the Student's Disability. The CSC will promptly:

E6.7.1. Forward the case and a recommended course of action to the principal, who may refer the case to a disciplinary committee for processing under enclosure 5.

E6.7.2. Reconvene following a disciplinary decision that would change the student's placement, to revise the student's IEP and/or devise a suitable alternate educational setting and delivery system to ensure the student receives services consistent with his or her IEP.

E6.8. CSC Determination that Misconduct Results from a Student's Disability.

E6.8.1. The student's misconduct is a manifestation of his or her disability when all information described in subparagraph E6.2.3. of enclosure 6, has been reviewed and the CSC determines that the student's conduct was:

E6.8.1.1. Caused by, or had a direct and substantial relationship to, the student's disability; or

E6.8.1.2. Was the direct result of the school's failure to implement the student's IEP.

E6.8.2. Special Procedures When Misconduct Is a Manifestation. The principal must immediately convene the student's IEP CSC to:

E6.8.2.1. Conduct a functional behavioral assessment and implement a behavioral management plan; if no such assessment had been conducted or plan devised by the school prior to the decision to remove the student from his or her placement.

E6.8.2.2. Review any existing behavioral intervention and/or disciplinary plan and modify it as necessary to address the behavior.

E6.8.2.3. Revise the student's IEP and/or placement and delivery system to ensure the student receives services consistent with his/her IEP; or

E6.8.2.4. Return the student to the placement from which he or she was removed unless the school and the sponsor/parent/guardian both agree to a change of placement as part of the modification of the behavioral intervention or disciplinary plan:

E6.8.2.4.1. Not later than the end of 10 school days of removal; or

E6.8.2.4.2. Not later than the end of the 45th day, if the 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 45 school days.

E6.8.2.5. Take immediate steps to remedy deficiencies if the school, the sponsor/parent/guardian, and relevant members of the child's CSC determine the conduct in question was the direct result of the school's failure to implement the IEP.

E6.9. Protections for Children Not Determined Eligible for Special Education at the Time of Misconduct. A student who has not been determined eligible for special education and related services; who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this enclosure; if the school had knowledge that the student was a student with a disability BEFORE the behavior occurred that precipitated the disciplinary action.

E6.9.1 Basis for Knowledge. The school is deemed to have knowledge that a student is a student with a disability if, before the behavior occurred:

E6.9.1.1. The sponsor/parent/guardian of the student expressed concern in writing that the student is in need of special education and related services to a teacher of the student, the school principal, assistant principal, or the school special education coordinator; or

E6.9.1.2. The sponsor/parent/guardian had requested an initial evaluation of the student under reference (c); or

E6.9.1.3. The 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.

E6.9.1.4. Exception.

E6.9.1.4.1. The student has been evaluated and determined to be ineligible for services, in accordance with the procedures of reference (c).

E6.9.1.4.2. The school shall not be deemed to have knowledge that the student is a student with a disability if the sponsor/parent/guardian of the student has:

E6.9.1.4.2.1. Not allowed an evaluation for special education and related services, or

E6.9.1.4.2.2. Has refused services.

E6.9.2. Conditions That Apply if No Basis of Knowledge Before Misconduct: If the school does not have knowledge, prior to taking disciplinary measures against a student, that he or she is a student with a disability; in accordance with subparagraph E6.5.1, the student may be subjected to the disciplinary measures applicable to students without disabilities who engaged in comparable behaviors.

E6.9.3. Evaluation Requested During Pendency of Disciplinary Action.

E6.9.3.1. If a request is made for an evaluation of a 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, and provided such services as are required by this Regulation, the student shall remain in the educational placement determined by school authorities; which may be in the regular classroom or the location to which the student is removed.

E6.9.3.2. If the student is determined to be eligible for special education and related services, the school shall provide special education and related services in the setting in which the student is then placed. If the student is determined to be a student with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the school must provide special education and related services in accordance with this enclosure.

E6.10. Special Education Dispute Resolution Proceedings Invoked. When a sponsor/parent/guardian invokes dispute resolution procedures under reference (c):

E6.10.1. To challenge the student's disciplinary removal to an alternate educational setting or the manifestation determination; or

E6.10.2. The school challenges the current placement of the child under the IEP alleging that it is substantially likely to result in injury to the student or to others;

E6.10.3. The 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 school and the sponsor/parent/guardian agree otherwise.

E6.11. Referral To and Action by Law Enforcement and Judicial Authorities.

E6.11.1. Rule of Construction. Nothing in this Regulation prohibits a school from reporting a crime committed by a child 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 student with a disability.

E6.11.2. Transmittal of Records. An agency reporting a crime under this section may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is in accordance with DoD 5400.11-R (reference (e)).

E6.12. Removal from the School Bus. A CSC, including a representative from the transportation office, must convene when a student with disabilities is proposed for removal from school bus privileges for over 10 consecutive school days. A CSC need not be convened prior to removal from the bus if:

E6.12.1. The removal, regardless of the duration (if the removal is included as a permissible strategy in the behavior management plan), and the plan also describes the circumstances under which the removal for specified durations is appropriate.

E6.12.2. Alternative transportation to and from school is available for the student during the period of removal.

E6.13. Sponsor/Parent/Guardian Consent. The sponsor/parent/guardian may:

E6.13.1. Consent to short-term extensions of a student's removal when the sponsor/parent/guardian and principal agree that a short-term extension will preserve the welfare of the student or of other students or personnel in the school.

E6.13.2. Confirm with the school a date, as soon as possible following a consensual extension of any removal, on which a CSC will convene to determine the student's IEP or placement.

E7. ENCLOSURE 7

WORKSHEET FOR CONDUCTING A MANIFESTATION DETERMINATION REVIEW

PART A BACKGROUND:

Student's Name: _____ Date: _____

Evaluation/placement team members (by name and role):

1. Is the student currently eligible for IDEA (special education) services? YES__ NO__

   A. If YES, Identify qualifying disability(ies):

   B. If Number 1 is answered NO, then:

   i. Has the sponsor/parent/guardian expressed concern in writing to one of the student's DoDEA teachers or to the supervisory or administrative personnel of the school district that the child needs special education and related services?

   YES___NO___

   ii. Has the sponsor/parent/guardian requested an initial evaluation of the student?

   YES___NO___

   iii. Has the 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?

   YES___NO___

   iv. At the time he or she enrolled in DoDEA, did the student's sponsor/parent/guardian present school record evidence of an existing active IEP from another school, or of a current referral for special education evaluation?

   YES ___NO___

If any question is answered YES, then treat the student as requiring a determination of manifestation before the student can be disciplined by removal for more than 10 consecutive days. If all questions are answered NO, then treat the student according to regular education procedures.

2. Identify the sources of information relied upon:

A. Sources of information in student records:

__ Assessment/evaluations (attach assessments and summaries)
__ Diagnostic information (attach results)
__ Interviews conducted (attach summaries)
__ Direct observations (attach summaries)
__ Functional Behavior Analyses (attach summaries)

B. Sources of information not in student records provided by sponsor/parent/guardian. Describe the nature of the information and attach summaries:

3. Describe current misconduct and the proposed disciplinary action or attach notice of proposed discipline and evidence of details.

PART B: DOES THE PROPOSED REMOVAL CHANGE THE STUDENT'S PLACEMENT

1. Does the proposed disciplinary action require removal for more than 10 consecutive school days?

___ YES: Placement is changed; proceed to Part C
___ NO: Go to Question 2.

2. Does the proposed disciplinary action require removal for more than 10 cumulative school days in the current school year?

YES _____ NO _____

If NO, placement is not changed.

If YES, Go to Part C. If the answer to question C.1 or C.2 is yes, the pattern of misconduct resulting in suspension for more than 10 cumulative days is a change of placement.

PART C MANIFESTATION:

1. Was the student's misconduct (or if the student has multiple suspensions cumulating more than 10 days in a school year, the pattern of the child's misconduct) caused by, or directly and substantially related to, the student's disability? YES ____ NO ____

If NO, go to Question 2

If YES; describe with specificity how the conduct was caused by, or had a direct and substantial relationship to, the child's disability.

2. Was the student's misconduct the direct result of the school's failure to implement the student's IEP? YES _____ NO _____

If YES, describe with specificity how the school failed to implement the child's IEP and that failure caused the student's misconduct.

If NO to questions C.1 and C.2, the MISCONDUCT WAS NOT A MANIFESTATION OF DISABILITY, and regular disciplinary procedures must be followed; special education and related services MUST still be provided in accordance with the IEP, in any alternative educational setting.

If YES to either C.1 or C.2, MISCONDUCT WAS A MANIFESTATION OF DISABILITY; follow the procedural rules of enclosure 6.

E8. ENCLOSURE 8

STUDENT SCHOOL BUS BEHAVIOR MANAGEMENT POLICY

E8.1. General. The time students spend going to and from school is an extension of their school day. School buses are an extension of the school campus. As such, principals are equally as responsible for discipline on school buses as they are on school campuses. Principals may take disciplinary action for school bus misconduct consistent with this enclosure or may process them in accordance with procedures available for other school discipline. Riding school buses is a privilege that may be suspended or revoked if a student does not behave in a safe and proper manner. Nothing in this enclosure precludes the principal from exercising appropriate discipline, including suspending the student from school or from school related activities, for misconduct on school buses.

E8.2. Applicability. This policy applies to all DoDEA schools. However, in a few instances, the primary responsibility for enforcing 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 Area Director's Office and the respective major command. Area Directors will amend these MOUs to ensure that Military Command disciplinary policy is consistent with the policy in this enclosure.

E8.3. Discipline of Children/Students with Disabilities. Discipline of students with disabilities must be consistent with provisions of enclosure 6. A student with disabilities may not be removed from the school bus for more than 10 consecutive days unless the Case Study Committee has determined that the student's removal does not constitute a change in placement or otherwise interfere with the student's free appropriate public education. In most instances, a student with disabilities can be removed from the school bus for more than 10 consecutive only when alternate means of transportation are available.

E8.4. Responsibilities.

E8.4.1. Student Responsibilities. Students are responsible for:

E8.4.1.1. Complying with the behavior standards for school bus students (attachment E8.A1.) and with the general behavior standards of enclosure 3.

E8.4.1.2. Obeying the instructions of bus drivers, DoDEA personnel, and military officials.

E8.4.1.3. Attending and completing school bus safety training sessions when offered by the school or military installation.

E8.4.1.4. Presenting a school bus pass on demand, where bus passes are used.

E8.4.1.5. Reporting the loss of damage of school bus passes, if used, to the local school bus management office or school administrator's office.

E8.4.2. Sponsor/Parent/Guardian Responsibilities. The sponsor/parent/guardian is responsible for:

E8.4.2.1. Ensuring that student family members afforded school bus riding privileges have been advised of, and understand, the school bus behavior management policy, and understand that bus service is a privilege, not a right.

E8.4.2.2. Ensuring that student family members have valid school bus transportation passes, if required.

E8.4.2.3. Ensuring the safety of student family members to, from, and while waiting at the bus stop.

E8.4.2.4. Ensuring that student family members are at the designated bus pickup point 5 minutes before the scheduled arrival of the bus.

E8.4.2.5. Reporting incidents to the local DoDEA school bus office management officials of unsafe or unruly behavior observed on school buses and at school bus stops.

E8.4.2.6. Providing school personnel with timely written notification, including by e-mail, when a student has a change in his or her normal transportation schedule or plan.

E8.4.2.7. Getting their student family members to and from school in accordance with school arrival and departure policies if their bus riding privileges are suspended by DoDEA or appropriate military officials.

E8.4.2.8. Serving as a bus monitor when required by the military commander.

E8.4.2.9. Acknowledging that student ridership is contingent upon sponsor/parent/guardian agreement to these responsibilities described in this enclosure.

E8.4.3. School Principal Responsibilities. School principals, or designees, are responsible for:

E8.4.3.1. The overall administration and success of their school bus discipline program.

E8.4.3.2. Making school policy, in which it is clear that the time students spend going to and from school is an extension of their school day, and that school buses are an extension of the school campus.

E8.4.3.3. Taking appropriate action when 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 school bus misconduct items are recorded in the student's disciplinary file.

E8.4.3.4. Providing school bus loading and off-loading supervision of students at school areas.

E8.4.3.5. Referring to the local military command for review, repeated acts of student misconduct, student criminal acts, student-caused damage to the bus or another person's property, and instances when the sponsor/parent/guardian is unwilling or unable to take corrective action when their student has been found guilty of school bus misbehavior.

E8.4.3.6. Monitoring attendance of students who have been removed from school buses for cause.

E8.4.3.7. Conferring with the sponsor/parent/guardian of a student who has been involved in a serious misconduct incident or repeated incidents of school bus misbehavior.

E8.4.3.8. Assuring that each sponsor/parent/guardian, at the time of registration, is provided with a copy of the Memorandum for Parents and Sponsors of Student Riding DoDEA School Buses, the Behavior Standards for School Bus Students, and the School Bus Misbehavior Report. (See attachments E8.A1.–E8.A3.)

E8.4.3.9. Ensuring that students with disabilities are disciplined in accordance with enclosure 6 of this Regulation, when the procedures of enclosures 4 or 5 are unavailable.

E8.4.4. DoDEA School Bus Office Responsibilities. DoDEA school bus management office personnel are responsible for:

E8.4.4.1. Issuing school bus passes to students accorded school bus riding privileges only after determining that the sponsor and the student have met the requirements of subparagraphs E8.4.1 and E8.4.2. of this enclosure.

E8.4.4.2. Conducting or ensuring that bus service providers conduct in-school training on safety and school bus behavior standards.

E8.4.4.3. Ensuring that:

E8.4.4.3.1. Bus service providers have procedures on how to handle and report various incidents and the actions to be taken; when student misconduct is observed while en route to or from school.

E8.4.4.3.2. Bus contractors have trained their bus drivers and administrative personnel on these procedures.

E8.4.4.4. Coordinating with principals and military commanders on serious school bus misbehavior or alleged criminal acts by students.

E8.4.4.5. Collecting and returning bus passes as a result of the suspension of school bus riding privileges (i.e., temporary or for the balance of the school year).

E8.4.4.6. Advising the bus service provider of the duration of suspensions and any route changes that may result.

E8.4.4.7. Assisting principals or their designees in the supervision of the loading and unloading of school buses at schools. When possible, routine contract quality assurance inspections should be done in conjunction with the normal loading and unloading times.

E8.4.4.8. Assisting the principal in preparing and submitting adequate and proper information, including written reports, required in the delivery of bus transportation services, when Area Service Center Transportation Management Office (DoDEA TMO) personnel are present at the scene of an accident or incident requiring the reporting of information.

E8.4.4.9. Performing as the primary liaison between school bus contractors, school principals and administrators, and military community officials.

E8.4.4.10. Advising military commanders on the desirability of starting, or continuing, a school bus monitor program; which includes: coordinating with the bus service providers, providing the commander with the names and addresses of eligible student riders and of their sponsor/ parent/guardian, and the taking of reports of misconduct from appointed or volunteer bus monitors when school bus management staff is approached.

E8.4.5. District Superintendent Responsibilities. The district superintendent:

E8.4.5.1. Exercises educational supervision for the administration of student discipline within the district to ensure consistency of punishment and adherence to the student school bus behavior standards.

E8.4.5.2. Resolves disputes between the sponsor/parent/guardian/student and the school principal on the severity or propriety of discipline for a student.

E8.4.5.3. Exercises general supervisory authority over the educational aspects of the administration of school bus discipline within the district, to ensure consistency in the application of discipline, safety, and adherence to the school bus behavior standards.

E8.4.5.4. Coordinates with military command when sponsor/parent/guardian ridership of the school bus is necessary to ensure the safety or continuation of school bus services.

E8.4.6. Area Director Responsibilities. The Area Director:

E8.4.6.1. Supports the educational concerns of principals, district superintendents, and fellow Area Directors in the administration of student discipline.

E8.4.6.2. Negotiates Memoranda of Understanding (MOU) with the Military Services, as appropriate, to:

E8.4.6.2.1. Obtains Military Service support and assistance in the administration of the school bus discipline program; to include the Military Service's traditional provision of investigative support.

E8.4.6.2.2. Ensures the safety or continuation of school bus services, when appropriate.

E8.4.6.3. Negotiates changes to MOUs with the Military Services to ensure consistency in discipline for school bus infractions consistent with the provisions of this enclosure, and in cases involving students with disabilities, the provisions of enclosure 6 of this Regulation.

E8.4.7. Military Commander Responsibilities. The military commander will perform those duties agreed upon in the MOUs between the DoDEA TMO and the respective major commands. Copies of the MOUs are available at the DoDEA TMO office and at the local military installation.

E8.5. Procedures. The following procedures are provided to assist in implementing the school bus behavior management policy:

E8.5.1. Sponsor/Parent/Guardian Involvement. At the time the student is registered for school bus service, the registrar or school bus personnel will provide the student and the sponsor with a copy of the Memorandum for Sponsors/Parents/Guardians of Students Riding DoDEA School Buses (attachment E8.A1.), a copy of Behavior Standards for School Bus Students (attachment E8.A2.), and a copy of enclosure 3 of this Regulation. The sponsor and the student will sign and return attachment E8.A2 to the school, acknowledging in writing that they have been provided a copy of the Behavior Standards for School Bus Students, and that they understand and agree with the contents thereof. The student will agree to abide by the Behavior Standards for School Bus Students. The sponsor/parent/guardian will agree to serve as a bus monitor when required by the military commander. The signed copy of the acknowledgement will be held in the school bus office files.

E8.5.2. School Bus Passes (where used).

E8.5.2.1. Each student will travel to and from school on the assigned bus.

E8.5.2.2. When the school district issues bus passes, students will be responsible for safekeeping their assigned student pass, where such passes are issued. Students are required to present their school bus passes, if required, to the driver of the bus as they board the bus. Students who fail to present their passes must provide their name to the bus operator who will report the student to the principal and the transportation management office. Students or their sponsors must report the loss or damage to school bus passes to the local school bus management office before that office will replace a pass. The sponsor/parent/guardian may be required to sign for receipt of a replacement pass.

E8.5.3. School Bus Discipline.

E8.5.3.1. Trivial Infractions of the Disciplinary Rules. The principal, school bus operator, monitor, or a sponsor/parent/guardian may remind a student of what is acceptable behavior when a student engages in minor acts of indiscretion.

E8.5.3.2. Serious or Repeated Infractions.

E8.5.3.2.1. Person(s) observing student misconduct will submit a formal report to the principal using the "School Bus Conduct Referral" form (attachment E8.A4.).

E8.5.3.2.2. The principal will review the referral and evaluate the seriousness of the offenses described and prescribe the appropriate remedy.

E8.5.3.2.3. When the principal concludes that the conduct does not warrant suspension of bus privileges, the principal will counsel the student and send a warning memorandum (attachment E8.A5.) to the sponsors/parents/guardians/ of the student informing them of the misconduct and requesting that the behavior standards for school bus students be discussed with the student. The sponsors/parents/guardians of the student are required to acknowledge receipt of the principal's memorandum.

E8.5.3.2.4. If the offenses described in the referral suggest to the principal that a suspension of bus privileges is appropriate, the principal will immediately notify the student of his intention to suspend the student from the bus and provide the student with the opportunity for an informal conference.

E8.5.3.2.5. During the informal conference, the principal will describe the information that supports the principal's decision to suspend and afford the student an opportunity to respond by way of explanation of his or her conduct, and by offering other types of evidence to support the student's explanation or to establish that the 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 student's conduct imperils or threatens to imperil the life or limb of any student, or to disrupt the good order of the bus or the general educational environment, and the conference cannot reasonably be conducted prior to the commencement of the suspension. After the principal has made a reasonable inquiry and is in possession of sufficient information to make a determination, the principal shall make and announce to the student his or her findings. The principal shall then inform the student as to the disciplinary sanctions which will be imposed, if any. No appeals are authorized for sanctions imposed by this enclosure unless the principal elects to proceed under the provisions of enclosures 4 or 5 of this Regulation. (See sub-paragraph E8.5.3.2.6.)

E8.5.3.2.6. The principal may proceed to discipline a student for school bus misconduct under this enclosure, or he or she may consolidate school bus discipline with a disciplinary proceeding for other school disciplinary infractions, pursuant to enclosures 4 through 6 of this Regulation; particularly if the student's school bus behavior jeopardizes the safety and well-being of others and/or the student commits any prohibited act set forth in enclosure 2, or the student's misconduct unreasonably disrupts the educational environment. If

the principal seeks to invoke the procedures and actions of enclosures 4 through 6 of this Regulation, case processing pursuant to these enclosures will preempt further processing; pursuant to this enclosure.

E8.5.3.2.7. The procedures in enclosure 6 must be followed if a student eligible for special education is subjected to school bus suspension for a period in excess of 10 consecutive days in a school year, or is subjected to removal for more than 10 days in accordance with enclosure 4 of this Regulation.

E8.5.3.2.8. If the principal decides that suspension from the bus is appropriate, in proceedings under this enclosure or enclosures 4 through 6, he or she will forward a memorandum to the sponsor/parent/guardian of the student advising of the seriousness of the violation, and that school bus riding privileges for the student have been suspended for a specified period of time (attachment 6). The sponsor/parent/guardian of the student are required to acknowledge receipt of the memorandum. The principal shall forward a copy of each suspension notice to the school bus management office, which will notify the contractor of the suspension and retain the offender's school bus pass until returned to the student at the end of the suspension period.

E8.5.3.2.9. The type of discipline appropriate to a student's misconduct depends on the principal's assessment of the nature and seriousness of the misconduct and the number of infractions. In deciding the appropriate discipline, the principal must take into account a variety of factors including, but not limited to; the:

E8.5.3.2.9.1. 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.

E8.5.3.2.9.2. Strength of the evidence of the offense.

E8.5.3.2.9.3. Prior disciplinary record of the perpetrator and of other perpetrators who have been punished for the same or similar misbehavior.

E8.5.3.2.9.4. Perpetrator's intent to cause injury or damage.

E8.5.3.2.9.5. Perpetrator's contrition and willingness to make restitution for damage to property.

E8.5.3.2.9.6. Value of the damage caused to property.

E8.5.3.2.9.7. Intention or malice of the student to cause the damage to property or the injury to person.

E8.5.3.2.9.8. Difference in the size or age of the student causing the damage or injury in relation to that of the victim.

E8.5.3.2.9.9. Repulsiveness of the particular vulgarity or obscenity.

E8.5.3.2.9.10. Role of the student as an initiator or following of others in the misconduct.

E8.5.3.2.9.11. Age of the perpetrator and the awareness of the offensiveness of the particular breakdown of authority over, or the discipline of, other students, and the repetitiveness or cumulative effect of multiple infractions.

E8.5.3.2.10. The principal shall maintain a listing of School Bus Behavior Infractions and Actions Record (attachment E8.A3.) and provide a copy to the local school bus management office. It lists infractions and provides general guidance on what may be considered "routine," "serious," and "very serious" for purposes of determining the nature and extent of the discipline. These infraction categories are to be used by the principal when reporting student misconduct to sponsor/parent/guardian/student and are to be prominently displayed in the school, the school bus management office, and on the school bus.

E8.5.3.2.9.11. If the principal determines to pursue discipline involving removal from the school, in addition to suspension of school bus privileges, the principal will follow the applicable procedures of enclosures 4, 5, or 6; and make the action suspending school bus privileges a part of those procedures; or, the principal may pursue those procedures in addition to those prescribed herein for suspension of school bus privileges.

Attachments – 6

E8.A1. Memorandum for Sponsors/Parents/Guardians of Students Riding DoDEA School Buses
E8.A2. Behavior Standards for School Bus Students and Sponsor/Parent/Guardian Acknowledgment
E8.A3. School Bus Infractions and Recommended Consequences
E8.A4. Office of the Principal School Bus Conduct Referral
E8.A5. Office of the Principal Student Misconduct Warning
E8.A6. Parental Acknowledgement of Receipt of Student Misconduct Warning
E8.A7. Office of the Principal Removal of School Bus Riding Privileges
E8.A8. Parental Acknowledgement of Receipt Removal of School Bus Riding Privileges

E8.A1. ENCLOSURE 8 - ATTACHMENT 1

MEMORANDOM FOR SPONSORS/PARENTS/GUARDIANS/ OF STUDENTS RIDING DODEA SCHOOL BUSES

SUBJECT: Standards of Conduct for DoDEA School Buses

This memorandum concerns the safety and well-being of our students as they ride our 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/Guardian Acknowledgment.

Safe transportation of DoDEA students is the concern of DoDEA, sponsors/parents/guardians, and students. DoDEA contracts for bus transportation from responsible firms with mechanically sound vehicles and properly qualified drivers. However, the safe operation of school buses also depends on student riders understanding and adhering to proper conduct.

Sponsors/parents/guardians share with their student(s) the responsibility for proper student behavior in DoDEA's schools and on DoDEA school buses. Attached is a copy of DoDEA's Behavior Standards for School Bus Students, Proposed Disciplinary Consequences for School Bus Misconduct, and enclosure 3 of DoDEA's Disciplinary Regulation.

Sponsors/parents/guardians must ensure that their student(s) understand and follow these rules. In addition, student riders must understand that bus drivers are not to be distracted from safe driving by student misbehavior. Students must show respect for the bus drivers and follow the bus drivers' instructions.

As a sponsor/parent/guardian, you must agree in writing that you will ensure your child understands that riding the school bus is a privilege, and that ridership privileges may be revoked for a violation of school bus behavior rules. Also, you must agree to serve as a bus monitor when required by the military commander. Please sit down with your student, carefully discuss the attached rules, sign and return them to your student's Principal(s).

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

Principal's Signature

Enclosures:
As stated:

E8.A2. ENCLOSURE 8 - ATTACHMENT 2

BEHAVIOR STANDARDS FOR SCHOOL BUS STUDENTS AND SPONSOR/PARENT/GUARDIAN ACKNOWLEDGMENT

ON AND AROUND SCHOOL BUSES STUDENTS WILL:

1. Comply with all school rules with the "Behavior Standards for School Bus Students."
2. Board and exit the bus in an orderly, safe manner.
3. Present bus pass when boarding the bus, and upon demand.
4. Remain seated while on the bus.
5. Talk with other passengers in a normal voice.
6. Keep all parts of the body inside the bus windows.
7. Keep aisles, steps, and empty seats free from obstruction.
8. Remain fully and properly clothed.
9. Treat the driver and fellow students with respect.
10. Promptly comply with the bus driver's or monitor's instructions.
11. Treat the bus and other private property with care.

ON OR AROUND SCHOOL BUSES STUDENTS WILL NOT:

1. Fight, push, shove, or trip other passengers
2. Use or possess unacceptable items identified in the school "Code of Conduct."
3. Push while boarding, on, or exiting the bus.
4. Get on or off the bus while the bus is in motion.
5. Make excessive noise, or play electronic equipment without earplugs.
6. Put objects out of bus windows or hang out of windows.
7. Engage in horseplay.
8. Obstruct aisles, steps, or seats.
9. Engage in public displays of affection.
10. Eat, drink, or litter on the bus.
11. Use profane or abusive language or make obscene gestures.
12. Spit or bite.
13. Harass, bully, or interfere with other students.
14. Disrespect, distract or interfere with bus driver.
15. Damage private property.
16. Sit in the bus driver's seat, or touch bus operating devises or equipment.
17. Open or try to open bus door.
18. Throw or shoot objects inside or out of bus.
19. Tamper with bus controls or emergency equipment.
20. Violate any other school rule, law or military installation regulation.

I, the DoDEA sponsor, acknowledge that I have received a copy of enclosure 3 of the DoDEA Disciplinary Regulation and the Behavior Standards for School Bus Students. I have explained the school and school bus behavior standards and necessity for those standards to my

student, and I have explained that I expect these school and school bus behavior standards to be followed.

I understand that actions for misbehavior could include suspension or revocation of bus rider privileges, and other school disciplinary action.

I agree that I will serve as a school bus monitor or that I will be responsible for finding a person to serve as a monitor on my behalf should I be required to serve by the military commander.

_____ _____

Signature of Sponsor/Parent/Guardian/ (Student age 18 or over) — Date Signed

E8.A3. ENCLOSURE 8 - ATTACHMENT 3

School Bus Infractions and Recommended Consequences		Bus Riding Privileges Suspended for:				
Number column designates the number of incidents.		Warning	5 School Days	20 School Days	30 School Days	Remainder of Year
1 UNSAFE BEHAVIOR						
a	Fighting, pushing, shoving or tripping					
b	Use or possession of unacceptable items identified in the school code of conduct. (The school bus is an extension of the school/campus.)					
c	Failure to have bus pass in possession.					
d	Pushing while boarding or leaving the bus					
e	Getting on or off bus while bus is in motion					
f	Not properly seated					
g	Putting objects out of bus windows or hanging out of window					
h	Making excessive noise or playing electronic equipment with using earphones					
i	Engaging in horseplay					
j	Obstructing aisles, steps, or seats					
2 INAPPROPRIATE BEHAVIOR						
a	Failure to remain properly clothed					
b	Public displays of affection					
c	Eating, drinking, or littering on bus					
d	Using abusive/profane language and/or gestures					
e	Spitting or biting					
f	Harassing or interfering with other students					
g	Failure to comply with bus driver's or monitor's instruction					
h	Disrespect, distraction, or interference with driver					
3 DESTRUCTIVE BEHAVIOR						
a	Damaging private property (requires payment of damages)					
b	Sitting in driver's seat or tampering with bus controls					
c	Opening or trying to open bus door					
d	Throwing or shooting objects inside or outside of bus					
4 PROHIBITED BEHAVIOR						
a	Tampering with bus controls or emergency equipment					

1. All rule infractions are cumulative. A series of minor infractions may result in serious consequences.

2. 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.

3. Older students are expected to behave more maturely and thoughtfully than younger students, therefore, will be held more responsible for the consequences of their conduct.

4. Possession of weapons or prohibited items, as described by this Regulation or other military regulations, controlled substances, alcohol, or other serious incidents will be reported on Form 4795 and may result in removal or expulsion from school in addition to the loss of bus privileges.

E8.A4. ENCLOSURE 8 - ATTACHMENT 4

SCHOOL NAME
OFFICE OF THE PRINCIPAL
SCHOOL BUS CONDUCT REFERRAL

DATE_____ TIME_____

STUDENT NAME AND GRADE _____

BUS NO. _____ TEACHER_____

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.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____ _____ _____
Print Name Signature Date

E8.A5. ENCLOSURE 8 - ATTACHMENT 5

OFFICE OF THE PRINCIPAL
STUDENT MISCONDUCT WARNING

Date_____

MEMORANDUM FOR _____
Name of Sponsor/Parent/Guardian

SUBJECT: Student Misconduct Warning

1. The school has received notice of unacceptable behavior by _____ on _____. The report indicated: _____
_____
_____

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 _____and depart at _____. 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.

3. Please repeat your discussion of the attached standards of conduct with your dependent(s).

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:
_____.

Principal's Signature

Attachment:
As stated

cc:
School Administrators
School Counselor
Transportation Management

E8.A6. ENCLOSURE 8 - ATTACHMENT 6

PARENTAL ACKNOWLEDGEMENT
OF RECEIPT OF STUDENT MISCONDUCT WARNING

I acknowledge receipt of the memorandum dated _____ warning me that my child (children) _____(name(s)) was (were) involved in misconduct and that school bus privileges may be revoked or suspended if behavior does not improve.

_____	_____	_____	_____
Sponsor/Parent/Guardian/ Signature	Date	Student Signature	Date

Telephone Numbers _____ _____ _____
Duty/Work Home Emergency

E8.A7. ENCLOSURE 8 - ATTACHMENT 7

OFFICE OF THE PRINCIPAL
REMOVAL OF SCHOOL BUS RIDING PRIVILEGES

Date_____

MEMORANDUM FOR _____
(Name of Sponsor/Parent/Guardian)

SUBJECT: Removal of School Bus Riding Privileges

1. The school has received notice of unacceptable behavior by _____ on _____. The report indicated:
_____
_____
_____

2. As a result of this incident, _____'s school bus riding privileges are suspended from _____ to _____. During this period of removal, you are responsible for transporting your student to and from school to arrive at _____ and depart at _____. 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 _____ 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 _____.
(date)

Principal's Signature

Attachment:
Acknowledgment of Receipt

cc:
School Administrators
Teacher
Transportation Management Office

E8.A8. ENCLOSURE 8 - ATTACHMENT 8

PARENTAL ACKNOWLEDGMENT OF RECEIPT
REMOVAL OF SCHOOL BUS RIDING PRIVILEGES

I acknowledge receipt of the memorandum dated _____ advising me that my student(s) _____ has had his/her/their school bus privileges suspended from _____ to _____.

_____ _____ _____ _____
Sponsor/Parent/Guardian/ Signature Date Student Signature Date

Telephone numbers _____ _____ _____
Duty/Work Home Emergency