



Special Education Advisory Committee

Policy 8030: Harassment and Discrimination of Students

Abridged Report¹ and Recommendations

October 11, 2020

Prepared For:
SEAC Membership
Special Education Community
Loudoun County School Board

For more information and supporting documents, please see SEAC's issue page:
http://loudounseac.org/wiki/Harassment_and_Discrimination_of_Students

¹This document is a brief report of the current SEAC recommendations on this policy. It does not, and is not intended to, fully capture the history and background of the issue. A full report is available upon request.

Summary of Recommendations

Recommendation 1: Revise the draft policy to replace references to discipline with consequences that require the use of PBIS instead of punishment.

Rationale:

SEAC and MSAAC have expressed our concern that old-fashioned, punishment-focused disciplinary measures are ineffective and discriminatory. Peer-reviewed research as well as LCPS's own data supports both; they lack efficacy and have a disparate impact.

The Discipline Task Force recommended the use of Positive Behavior Interventions and Supports (PBIS) instead of punishment. LCPS staff repeatedly claim to be using PBIS. SEAC has received many reports that there is a disconnect between the staff's claim and what is actually happening in many schools. This newly created policy contains no use or mention of PBIS and is instead written as an old-fashioned, crime and punishment-style policy that is not supported by peer-reviewed education research.

Our non-discrimination policy needs to be non-discriminatory.

Recommendation 2: Revise the draft policy to add an appeal process that:

- a) is modeled after the process for appeals of short-term suspensions,**
- b) is decided prior to the application of any consequence,**
- c) includes review by the superintendent's designee, the equity director, and the 504 coordinator (if a disabled student is involved), and**
- d) requires that parents/guardians be notified of their appeal rights at the time of the initial decision**

Rationale:

Our non-discrimination policy needs to be non-discriminatory and just. Perceptions that either are not the case will undermine the policy's intended benefits.

These recommendations are straightforward due process steps that are based on guidance from the U.S. Department of Education's Office for Civil Rights (OCR) on what policies should contain to help reduce discrimination.

SEAC has serious concerns with the current short-term suspension appeal process but recommends the use of an existing process instead of creating a new one. Defects in our disciplinary processes are part of a broader discipline reform discussion.

Personnel who are responsible for equity and 504 compliance for LCPS should be included in the appeal review. Their mandate should be to examine the appeal, representing these interests for both the protagonist and antagonist in the suspected violation.

Recommendation 3: Refer the policy for review by SEAC, MSAAC, and the LCPS PBIS staff, specifically looking for revisions to reduce discriminatory impacts.

Rationale:

SEAC has serious concerns that this policy may worsen existing discrimination and disproportionality.

This policy has been reviewed by the Discipline committee, and appears to be old-fashioned, crime and punishment, discipline policy. It does not represent evidence-based practices or years of community feedback on how to reduce disciplinary disproportionality.

Key stakeholders in non-discrimination have not been given the opportunity to review this policy. If LCPS' intent is truly to reduce discrimination, the school board should insist that all stakeholders be included in this process.

1. Abridged Issue Background and History

Policy 8030, Discrimination and Harassment of Students, is a new policy that addresses how school staff will respond to suspected incidents of discrimination or harassment of students.

In January 2020, this policy was presented by the LCPS staff to the school board's Discipline committee. Atoosa Reaser, Vice Chair, Algonkian District asked if SEAC had reviewed this policy. The LCPS staff response was that SEAC had not, and would not be given the opportunity to, but that there was a separate policy addressing discrimination on the basis of disability (draft policy 8040) that SEAC had been given the opportunity to review.

The SEAC Chair spoke to the school board's Student Support and Services (SSS) committee and expressed concern that LCPS had developed two separate and unequal discrimination policies: one for disabled students and one for all other students. LCPS staff merged language the previous draft policy 8040 into the new draft policy 8030, creating section (A).

To date, SEAC has not been given the opportunity to review this policy and provide its input to the school board. Because this policy was presented to the school board as an agenda item, the SEAC Policy Subcommittee performed an abridged review and presented those recommendations for consideration at SEAC's October 7, 2020 meeting. The recommendations should result in a collaborative revision and further stakeholder review, including SEAC.

2. Concerns

Concern 1: Disciplinary disproportionality remains a problem in LCPS, and students with disabilities continue to suffer from the highest degree of disproportionality.

SEAC has received many reports that Special Education students are often punished for manifestations of their disability instead of receiving the supports that LCPS is obligated to provide them. SEAC has received many reports that Special Education students are deliberately targeted using disciplinary policies, that disciplinary measures are used as ways to retaliate against students and parents/guardians, that disciplinary measures are used as ways to give teachers/staff a break from Special Education students, and that disciplinary measures are used as ways to exclude Special Education students from classrooms and to remove Special Education students from schools. After years of community feedback, and despite public claims by LCPS staff that they use best practices to reduce these disproportionalities, some progress has been made for minority students, but not for Special Education students. For example, LCPS's suspension rate data leads to concern that the disparity is worsening for Special Education students:

Student Group/Statistic	2015-16	2016-17	2017-18	2018-19	(Unofficial) 2019-20
SPED Suspension Rate	2.53%	3.08%	3.03%	3.32%	1.98%
Students without Disabilities Suspension Rate	0.60%	0.67%	0.74%	0.79%	0.50%
Overall Suspension Rate	0.82%	0.95%	1.00%	1.10%	0.68%

Concern 2: This policy will punish special education students for their disability

This policy is written without any allowance for the student's (typically, child's) intent, ability to understand, and ability to refrain from unexpected behaviors. It is written as a strict liability, crime and punishment policy: a student who says or does something offensive will be punished for it. Many SPED students have impaired executive function and/or social skills, may not understand the harm that their words or actions may cause, or may not be able to control them. All students' ability to participate in society without offending others should be the goal. Schools should seek to achieve this through teaching and supporting students. No amount of punishment will build the requisite social and executive function skills, and ultimately no amount of punishment will achieve the outcome of reducing offensive words and actions. Again, this is supported by educational research.

Some parties might approach this issue from a desire for punishment and revenge for those who say and do things they perceive as offensive. We must reject negativity and use effective, evidence-based, positive practices that teach skills and expected behavior.