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Danvers Public Schools

Compliance Audit Findings and Recommendations Bullying, Harassment, and Discipline

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Introduction

In June 2025, Daniel Bauer, Ed.D., the Superintendent of the Danvers Public Schools (“District”), requested that the law firm of MacAvoy, Joyce & Kowalski, P.C., (“MJK”) complete a compliance audit of the District’s policies and procedures for responding to reports of bullying and harassment, as well as the District’s policies and procedures related to discipline.

Accordingly, MJK reviewed existing District policies and procedures related to bullying, harassment, and discipline for compliance with state and federal law, as well as best practice, and reviewed whether District staff were properly executing these policies and procedures. As a result of the audit, MJK has identified areas where the District is properly responding to bullying and harassment, and imposing discipline. MJK has also identified areas for growth for the District to learn from and build upon. MJK has recommended solutions for the District in these areas.

In the end, the goal of the audit, and the recommendations herein, are to ensure that the District is operating with compliant policies and procedures, and following the right process, in order to create a safer and healthier school environment for students of the District.

Overview of Process

The compliance audit consisted of the following three components:

1. A review of the District’s Policies and Procedures for responding to bullying and harassment, and imposing discipline. Specifically, MJK reviewed the following:
 - Bullying Prevention Policy, School Committee Policy JICFB
 - Bullying Prevention and Intervention Incident Reporting Form
 - Bullying Prevention and Intervention Plan, dated May 2024
 - Non-Discrimination and Harassment Statement, School Committee Policy AC
 - Appendices to Civil Rights Policy, School Committee Policy AC-E
 - Title IX Sexual Harassment Grievance Procedures
 - Danvers High School Student Handbook
 - Danvers Holton Richmond Middle School Student Handbook
 - Danvers Elementary School Student Handbook
 - Danvers Discipline Notices and Samples, dated August 2023
 - Other policies relevant to bullying, harassment, and discipline, including: ADC, JB, JIC, JICA, JICFA, JICH, JICH-E, JICHC, JICHA, JICHB, JII, JJE, JJIB, JK, KE, and KE-E.
2. A review of sample bullying, harassment, and Title IX cases.

- Interviews of thirteen (13) administrators, including principals, assistant principals, and student service staff. For a list of questions discussed, see Appendix A.¹

Findings and Recommendations

Policies and Procedures

- Bullying Prevention Policy (JICFB) and Bullying Prevention and Intervention Plan.** The District needs to revise both the Bullying Prevention Policy (JICFB) and the Bullying Prevention and Intervention Plan. As currently written, the Bullying Prevention Policy is non-compliant with itself, as well as M. G. L. c. 71, § 37O. The Bullying Prevention Policy includes sections that are required by statute, and the policy itself, to be developed in the Bullying Prevention and Intervention Plan in consultation with statutorily required stakeholders. Instead, the Bullying Prevention Policy should grant the authority to develop the Plan to the statutorily required stakeholders, and the authority to implement and oversee the Plan to the principal. The Bullying Prevention and Intervention Plan, and not the Policy, should include the more detailed account of the District's responsibilities related to responding to bullying, including the sections required by M. G. L. c. 71, § 37O and 603 CMR 49.00. MJK is providing recommended edits to both the Bullying Prevention Policy (JICFB) and the Bullying Prevention and Intervention Plan. *See Appendix B.*
- Title IX Sexual Harassment Grievance Procedures.** The District needs to revise its Title IX Grievance Procedures to be in compliance with the 2020 Amendments to the Title IX regulations. In May of 2020, the U.S. Department of Education ("DOE") amended the Title IX regulations at 34 CFR 106, and on August 14, 2020, these amendments went into effect. With the change in presidential administration following the 2020 Election, DOE again amended the Title IX regulations at 34 CFR 106, with those amendments going into effect on August 1, 2024. However, on January 9, 2025, a federal district court issued a decision striking down the 2024 Amendments to Title IX in their entirety, causing districts to have to revert back to ensuring compliance with the previous 2020 Amendments to Title IX and using the Title IX Grievance Procedures in effect prior to August 1, 2024. Additionally, in June 2025, the U.S. Department of Justice, Federal Bureau of Investigation's Uniform Crime Reporting Program revised certain definitions affecting the definition of "sexual assault" under Title IX. MJK provided new Title IX Sexual Harassment Grievance Procedures. *See Appendix C.*
- Title IX Manual.** The District was not in possession of a Title IX Manual that was compliant with the 2020 Amendments to the Title IX regulations, which are the active Title IX regulations at this time. Accordingly, MJK provided a Title IX Manual that is in

¹ Which questions were asked to specific individuals was tailored to the responsibilities of the individual interviewee. Additionally, certain questions were not asked, or certain additional questions were asked as follow-up, based on the answers being provided by the individual interviewee. Additional questions regarding discipline and manifestation determination reviews were asked of secondary administrators.

compliance with the 2020 Amendments to the Title IX regulations. This manual includes flowcharts outlining staff responsibilities, as well as template forms for staff to provide proper notice during the grievance procedures. *See Appendix D.*

4. **Non-Title IX Civil Rights Grievance Procedures.** The District did not have grievance procedures for non-Title IX allegations of discrimination, harassment, or retaliation. As a result, MJK provided Non-Title IX Civil Rights Grievance Procedures. *See Appendix E.*
5. **Non-Discrimination and Harassment Statement (AC).** The District's Non-Discrimination and Harassment Statement (AC) required minor edits to comply with the reversion back to the 2020 Amendments to the Title IX regulations, guidance from the U.S. Department of Agriculture ("USDA") regarding meal modifications and disability discrimination, and revisions to the definition of "race" under M. G. L. c. 4, § 7. MJK is providing a revised Non-Discrimination and Harassment Statement (AC). *See Appendix F.*
6. **Appendices to Civil Rights Policy (AC-E).** The existing Appendices to Civil Rights Policy (AC-E) has been revised to comply with the new Civil Rights Grievance Procedures, revised Title IX Grievance Procedures, and revised Bullying Prevention and Intervention Plan. *See Appendix G.*
7. **Civil Rights Policy and Complaint Procedures for the School Food Service Program.** The United States Department of Agriculture (USDA) has been issuing corrective action to schools for not having an accurate civil rights policy and complaint procedures for its School Food Service Program. MJK has developed a policy and complaint procedures for the District. *See Appendix H.*
8. **Bullying/Harassment Incident Reporting Form.** The District did have a Bullying Incident Reporting Form, but MJK has revised the Reporting Form so that it can serve as the primary intake form for administrators² when they receive a report of bullying or harassment. Part of the revisions also include steps for administrators to refer reports to the Civil Rights Coordinator and Title IX Coordinator, and document when notice of outcome has been provided to the parties. MJK also added sections for tracking the Investigation and Outcome Determination *See Appendix I.*
9. **Bullying Investigation Checklist.** To assist with compliance with the District's Bullying Prevention and Intervention Plan, MJK has developed this checklist for administrators to complete during an investigation. *See Appendix J.*
10. **Danvers Discipline Notices and Samples.** The District is in possession of template notices to issue when imposing discipline under M.G.L. c. 71, §§ 37H, 37H 1/2, and 37H 3/4. MJK provided the District with these template notices following the amendment to M.G.L. c. 71, § 37H 3/4 that became effective in November 2022. This amendment

² The use of the word "Administrators" for the duration of the report refers to "Principals" and "Assistant Principals."

significantly impacted principals' and superintendents' considerations and obligations when imposing any out-of-school suspension for a school rules violation. Of note, prior to suspending or expelling a student under M.G.L. c. 71, § 37H 3/4, principals, or their designees, are now required, with certain exceptions, to use alternatives to removal, and must document the use and results of such alternatives. The amendment did not, however, impact the imposition of discipline pursuant to M.G.L. c. 71, §§ 37H and 37H 1/2. These template notices were nearly compliant, and required very few edits. MJK is providing recommended edits to the Discipline Notices and Samples. *See Appendix K.*

11. **Disciplinary Checklists.** To assist with compliance with disciplinary due process under M.G.L. c. 71, §§ 37H, 37H 1/2, and 37H 3/4, MJK has developed this checklist for administrators to complete during the process. MJK is providing the Discipline Notices and Samples as individual letter templates so that these individual letter templates can be linked to this Disciplinary Checklist where prompted. *See Appendix L.*
12. **Manifestation Determination Review Checklist.** To assist with compliance with manifestation determination reviews, MJK has developed this checklist for administrators and special education staff to review during the process. *See Appendix M.*
13. **Handbooks.** To ensure accuracy and consistency across the District, MJK edited the High School, Middle School, and Elementary School handbooks. The edits were specific to language involving discipline, bullying, and harassment. *See Appendix N.*
14. **Other School Committee Policies.** MJK has revised the following school committee policies to be consistent with the revisions and recommendations MJK made as a part of this audit: JB, JIC, JICA, JICH, JICH-E, JICHC, JICHA, JICHB, JII, JJE, JJIB, and JK. *See Appendix O.*

Bullying & Non-Title IX Discrimination/Harassment Process

1. Intake Process

The District's initial response following a report of alleged bullying and/or harassment is a crucial moment to ensure compliance for the remaining part of the investigative process.

An area of strength for the District that was highlighted by administrators was that if a report of alleged bullying and/or harassment was made to a staff member other than a principal or assistant principal, those staff members were immediately contacting the principal or assistant principal regarding the report of bullying or harassment. However, one administrator noted that staff were not always reporting potential bullying or harassing conduct to the principal or assistant principal if the staff member did not receive a report that specifically used the terms "bullying" or "harassment." Not all administrators demonstrated sufficient knowledge about the definition of bullying.

Additionally, it was explained that staff were not always recording in writing oral reports of alleged conduct, which was/is required by the District's Bullying Prevention and Intervention Plan. All administrators identified the existing Bullying Prevention and Intervention Incident Reporting Form ("Reporting Form") as a resource that they use as the primary documentation method. As explained by one administrator, the Reporting Form is "good recordkeeping" particularly when "things can get lost in email or phone call or handwritten notes." Overall, most administrators acknowledged that they do not require complainants to fill out the Reporting Form in order for the allegations to be investigated. However, there was some confusion as to whether the Reporting Form was required, and some noted historical inconsistency in the District on whether complainants were required to fill it out.

Intaking complaints over the summer was identified as an area for growth. Specifically, it was noted that complaints were not being investigated over the summer.

Recommendations

The Reporting Form is an existing resource that administrators should continue to use. While it should be communicated to parents, students, and staff that the Reporting Form is one of many ways to report allegations of bullying or harassment, it should be made clear that complainants are not required to complete a Reporting Form in order for their reported allegations to be investigated. It is recommended that administrators use the Reporting Form as a means to document reports of bullying or harassment made by parents, students, and staff, rather than rely on parents, students, or staff to fill out the form themselves. For example, if a parent calls a principal with an allegation of bullying, the principal should document the allegations by filling out the Reporting Form. Similarly, if a parent emails a classroom teacher with allegations of harassment, and the classroom teacher tells the principal, the principal should document the allegations by filling out the Reporting Form. The practice of administrators documenting allegations of bullying and harassment on the Reporting Form, is not only "good recordkeeping," but centralizes the reporting and documentation, and prevents against non-compliance for failing to document oral reports.

Training for all staff, not just administrators, is crucial in order to ensure staff understand the applicable definitions of what may constitute bullying and/or harassment, and how to report such behavior.

In regard to the summer, administrators still need to intake complaints of bullying or harassment, put in supportive measures, and at least start the investigation process to the extent feasible. Both the Title IX and new Civil Rights Grievance Procedures state that the District will make reasonable efforts to complete investigations within the identified time-frames, but the grievance procedures allow for the District to extend the investigation period to account for the availability of witnesses during the summer vacation period. Any extension must be communicated to the parties, and should be done in writing. Although M.G.L. c. 71, § 37O and the District's Bullying Prevention and Intervention Plan does not include any specific timeline to complete investigations, they need to be done promptly. If a bullying investigation period is extended to

account for the availability of witnesses during the summer vacation period, it is best practice for administrators to provide notice to both parties.

2. Safety Planning

Safety Planning was an area of strength for the District. Administrators engaged in safety planning both at the onset of investigations, as well as at the end of investigations after a determination had been made that bullying/harassment had occurred. Of note, administrators reported meeting with families to discuss safety planning. While not legally required, it is a best practice to discuss safety plans and supportive measures with students and families to ensure comfortability, buy-in, and transparency with what is being proposed and agreed upon. Furthermore, in line with the updated Bullying Prevention and Intervention Plan, administrators reported following-up with targets after investigations to see if the prohibited conduct was continuing. Administrators reported using school counselors as designees to carry through with follow-up. In particular, at least one administrator reported adding school counselor check-ins to safety plans to ensure the required follow-up.

Recommendations

Continue implementing safety plans/supportive measures at the pre/post – investigation stages. Continue to prioritize meeting with students and families to discuss safety plans/supportive measures. Continue to follow-up with targets after the fact, including using school counselors as assets to ensure follow-up occurs.

3. Investigations

Administrators demonstrated good understanding of what an investigation into allegations of bullying or harassment entails (i.e. interviews and review other, available evidence). However, there were three specific types of investigations identified as either challenging or inconsistently dealt with across the District.

A portion or all of the alleged conduct happened outside of school.

While this scenario was identified in the interviews as particularly challenging, the case review demonstrated that administrators were actually handling these types of investigations appropriately. In the cases reviewed, the school properly initiated investigations where the allegations of bullying/harassment occurring outside of school also included allegations of conduct in school.

Recommendation

Continue to investigate allegations of bullying or harassment when the allegations include conduct that allegedly occurred at school or a school-sponsored activity. If none of the alleged conduct happened at school or a school-sponsored activity, administrators only need to respond to the allegations if the alleged conduct is creating a hostile environment at school for the

target/victim, infringing on the rights of the target/victim at school, or materially and substantially disrupting the education process or the orderly operation of a school.

Cross-claims of bullying or harassment.

There was inconsistency in the case review as to how administrators dealt with scenarios where two students each made bullying/harassment allegations against each other. In one example, the District properly completed an investigation into whether each student had been a target and aggressor of bullying, and ultimately determined that only one of the students had engaged in bullying behavior. In another example, however, allegations of bullying were unsubstantiated on the basis that the alleged target also engaged in behavior directed at the alleged aggressor. Instead of unsubstantiating the allegations of bullying on the basis that the behavior was “peer conflict,” the school should have investigated both students as alleged targets and alleged aggressors.

Recommendation

Be mindful of scenarios where students are making claims of bullying or harassment against each other. There is no exception in M.G.L. c. 71, § 37O, or the relevant civil rights statutes, for behavior that is classified as “peer conflict.” If administrators are classifying behavior as “peer conflict” it is possible that both students’ behavior may meet the applicable bullying or harassment definition because the students have been found to have targeted each other.

Parent/Student does not engage in the investigative process.

Both the interviews and the case review revealed scenarios where the schools were not completing required investigations unless parents/students requested them to investigate. This is inconsistent with the District’s obligation to investigate reports of bullying and harassment promptly once the District is on notice of such allegations. According to one administrator, the option to investigate was being given to students in order to maintain trust with them. Another administrator explained that if the parent/student did not engage in the process, “we let it go.”

Recommendation

While the intent of administrators to maintain trust and instill agency in parents and students is certainly understandable, it can lead to non-compliance if not handled appropriately. Administrators should only cease investigations if a parent or student provides written notice that they are withdrawing the complaint. Even if a student or parent asks the school not to investigate their allegations of bullying or harassment, or the student or parent stops cooperating with the investigation, administrators are still required to investigate allegations they are on notice of, and make determinations based on the evidence that is available.

4. Timelines

Staff reported no issues with meeting the fourteen (14) day investigation timeline that was required by the previous Bullying Prevention Policy (JICFB). Additionally, staff reported no issues with providing weekly updates on the investigation to parents, as required by the previous Bullying Prevention Policy.

Recommendations

Continue with promptly investigating reports of bullying and harassment. While the revised Bullying Prevention Policy (JICFB) and Bullying Prevention and Intervention Plan, in compliance with M. G. L. c. 71, § 37O, does not have a specific timeline for investigations, administrators are still required to promptly investigate bullying allegations. However, with the implementation of the new Civil Rights Grievance Procedures, investigators will be required to complete non-Title IX civil rights investigations within twenty (20) school days. Similarly, while the revised Bullying Prevention Policy (JICFB) and Bullying Prevention and Intervention Plan, in compliance with M. G. L. c. 71, § 37O, and the new Civil Rights Grievance Procedures, do not require administrators to provide parents with weekly updates regarding the investigation, administrators are required to provide notice if the investigation is extended.

5. Centralized Repository of Reports

An identified area for growth for the District is to create a centralized repository of information for administrators to be able to access to review a student's prior negative interactions with other students. Part of the analysis as to whether or not a student's conduct rises to the level of bullying or harassment is to determine whether the student has previously targeted the other student such that it is now repeated/pervasive. Administrators explained that they use email history searches, handwritten notebooks, spreadsheets, google documents, and cross-referencing with other staff members in order to determine whether the students have a prior history with each other. As one administrator stated, "I feel like there needs to be a better system." In addition to being inefficient, administrators identified that the lack of a centralized repository creates a gap of information when students leave elementary school for the middle school, and the middle school for the high school. Administrators were relying on their own notes, or information from their own staff, but were not able to access information and notes from other school buildings in the District.

Recommendations

Staff should upload the Reporting Form to the District's internal information sharing software and cloud sharing systems. This will give administrators at least an idea as to whether there have been previous allegations of bullying or harassment involving particular students. Administrators completing investigations should also interview staff from previous school years to get a sense of previous interactions between the students involved, particularly if the interactions did not result

in the initiation of a Reporting Form. The Reporting Form has been updated to notify Administrators to interview staff from previous school years. *See Appendix I.*

6. Training and Professional Development

Across the board, staff appear to be receiving training on the Bullying Prevention and Intervention Plan on an annual basis. However, administrators noted that training staff hired after the start of school on the Bullying Prevention and Intervention Plan is an area for growth. In terms of administrators reviewing the Bullying Prevention and Intervention Plan throughout the year, some noted that they consult the plan as they go through an investigation, while others stated they review it monthly or annually.

Recommendations

Continue to train staff on the Bullying Prevention and Intervention Plan on an annual basis. New staff should be receiving training on the plan, even if they are hired after the start of the school year. MJK has developed a Bullying Investigation Checklist for administrators to consult when completing an investigation to ensure compliance with the District's Bullying Prevention and Intervention Plan. *See Appendix J.*

7. Communicating with Special Education

This was an area of strength for the District. Administrators are communicating with the Special Education Department when there is a reported incident. This is crucial as the District has a responsibility to ensure that the effects of bullying or harassment are not denying the Student a free appropriate public education ("FAPE").

Recommendation

Continue to notify the Special Education Department when in receipt of a report of bullying or harassment.

8. Considering Claims of Sex Discrimination under State Law

The case review revealed that an area for growth is for administrators to determine whether allegations of bullying also meet the definition of sex discrimination/harassment under state law. Even if the allegations do not rise to the level of sexual harassment under Title IX, principals, or their designees, still have an obligation to determine whether the allegations constitute sex discrimination under Massachusetts law. See M.G.L. c. 151C and M.G.L. c. 76, § 5.

Recommendation

MJK has revised the Reporting Form to include reports of harassment. The Reporting Form now specifically prompts administrators to do an initial assessment as to whether the allegations may

also constitute discrimination/harassment, and who the appropriate point person is for the investigation. *See Appendix I.*

9. Written Notice of Outcomes

There was inconsistency as to whether administrators were providing written notice of outcome for bullying. The District's Bullying Prevention and Intervention Plan and M.G.L. c. 71, § 37O do not require written notice, and only require notice if the allegations are substantiated. The new Civil Rights Grievance Procedures do require written notice to parties regardless of the outcome.

Recommendation

Although not necessarily required by the District's Bullying Prevention and Intervention Plan and M.G.L. c. 71, § 37O, it is best practice to provide the parties with written notice following the outcome, regardless of the determination. Written notice is required by the new Civil Rights Grievance Procedures.

Title IX Process

1. Coordinating Investigations

Prior to the 2024-2025 school year, it was common practice in the District for the principal or assistant principal to start an investigation even if the allegations involved claims of sexual harassment. Starting with the 2024-2025 school year, however, the District changed its practice to have principals and assistance principals contact the Title IX Coordinator when they were in receipt of any allegation that was sexual in nature. Despite this, some administrators noted that they are still doing a preliminary investigation before referring to the appropriate coordinator if there are allegations of civil rights violations. In addition, it was noted that it is the District's practice to have the principals do the initial contact with victims after the District received a report of sexual harassment, and to have the principal send out written follow-up notice regarding supportive measures and information about the Title IX Grievance Procedures. It is also District practice to have principals and assistant principals sit in with the Title IX Coordinator during Title IX interviews. If the Title IX Coordinator were to dismiss a Title IX formal complaint, or otherwise not investigate an allegation of sexual harassment, it was clear that the Title IX Coordinator knows to refer the allegations back to the principal or assistant principal for investigation. The case review revealed, however, that there is a gap in principals or assistant principals not investigating under state law sexual harassment or sex discrimination allegations that were not handled by the Title IX Coordinator.

Recommendations

If the District is in receipt of a report of sexual harassment, the Title IX Coordinator should be contacted immediately to screen the report. Principals and assistant principals should not be

investigating reports of sexual harassment, unless the Title IX Coordinator has dismissed the complaint, or otherwise chosen not to investigate, and referred the complaint back to the building administrators for a bullying/civil rights investigation. Additionally, the Title IX Coordinator should be making the initial contact with the complainant, and instituting supportive measures. MJK is providing a Title IX Manual that includes flowcharts regarding the responsibilities of the Title IX Coordinator, including responsibilities related to screening reports of sexual harassment and investigating complaints under Title IX.

While having principals and assistant principals attend interviews with the Title IX Coordinator may help in streamlining investigations, it results in a conflict of interest if the principals are designated under the Title IX Grievance Procedures as the decision maker. Because the investigator cannot also be the decision maker under Title IX, it is recommended that the Title IX Coordinator serve as the investigator, and the principal serve as the decision maker. Therefore, the principal should not attend Title IX interviews.

MJK has revised the Reporting Form so that it now prompts principals and assistant principals to make determinations relative to both bullying and civil rights complaints. If the Title IX Coordinator dismisses a Title IX Complaint, or otherwise chooses not to investigate it, and refers it back to the principal or assistant principal, the principal or assistant principal needs to make sure they are investigating the complaint for possible bullying or sexual harassment under state law.

2. Title IX Grievance Process

The Title IX Coordinator is sending out the Notice of Allegations and is appropriately conducting the investigation. The Title IX Coordinator is notifying parents to schedule interviews, and is sending out the notice of opportunity to review the evidence and non-disclosure agreements. The Title IX Coordinator is writing a summary of the evidence. Despite being required, the Title IX Coordinator is not sending out notice to the parties regarding their right to submit directed questions. There is no issue with the written determination notice being sent within sixty (60) school days of receipt of the formal complaint, besides one extenuating circumstance that had multiple interviews and was a complex case.

Recommendation

The Title IX Coordinator should review the Title IX manual provided by MJK, which is compliant with the 2020 Amendments to the Title IX regulations. The Title IX manual covers each of the required steps in the Title IX process, and has template notices for each. It should be noted that the Title IX Coordinator cannot serve as both the investigator and decision maker. *See Appendices D.*

3. Title IX Determination Letters

The case review revealed that the District is issuing comprehensive determination letters relative to Title IX complaints. In the determination letters, the District is not only addressing whether

the allegations meet the definition of sexual harassment under Title IX, but also whether the allegations meet the definition of sexual harassment under state law, bullying under M. G. L. c. 71, § 37O, and discrimination or harassment under other civil rights statutes.

Recommendation

MJK is providing a Title IX manual compliant with the 2020 Amendments to the Title IX regulations, which includes templates for determination letters. *See Appendix D.*

4. Title IX Training

Administrators were clear that staff need more Title IX training.

Recommendation

Title IX training is valuable not only for administrators and those involved in the Title IX Grievance Procedures (i.e. investigators, decision makers, and appeal officers), but also for staff (teachers, counselors, paraprofessionals, athletics, etc.). Staff should be knowledgeable particularly about the definitions of sexual harassment under Title IX and their reporting responsibilities. Administrators and the Title IX Coordinator should receive in-depth training on the grievance process, with emphasis on coordinating investigations.

Discipline

1. Guidelines for Disciplinary Action

There is a dichotomy between administrators as to how they determine the length of suspension. Some administrators lean on discretion and consider the specific circumstances surrounding the incident, while others are relying on rubrics or guidelines in the handbooks.

Recommendation

In an effort to recognize the discretion that administrators have when it comes to discipline, while at the same time honoring the request during the interview process for standardized guidelines across the District, it is recommended that the Superintendent appoint a subcommittee to develop Guidelines for responses/consequences to statutory and school rules violations. The Guidelines should be clear that the list of violations is non-exhaustive, and the responses/consequences imposed are ultimately up to the discretion of the Principal. There should not be any automatic consequences, and the responses/consequences should be worded so that there is a range “up to” the most severe possible consequence.

2. Periodic Review of Discipline Data to Assess Impact of Disciplinary Action on Selected Student Populations

During the audit, the District received notification from the Department of Elementary and Secondary Education (DESE) that the District was at-risk in the following area of disproportionality: discipline of Hispanic or Latino Student with In School Suspensions for Less than 10 Days.

Recommendation

As required by 603 CMR 53.14(2), “[t]he principal of each school shall periodically review discipline data by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student with a disability status. In reviewing the data, the principal shall assess the extent of in-school suspensions, short- and long-term suspensions, expulsions, and emergency removals under 603 CMR 53.07, and the impact of such disciplinary action on selected student populations. The principal shall further determine whether it is necessary or appropriate to modify disciplinary practices due to over-reliance on expulsion, or in-school or out-of school suspension, or emergency removals, or the impact of such suspensions, removals, and expulsions on selected student populations compared with other students.” The District should ensure compliance with 603 CMR 53.14(2), and properly hold periodic reviews being completed by the principals.

3. Training for Administrators on Alternatives to Discipline

The amendment to M.G.L. c. 71, § 37H 3/4, that became effective in November 2022, significantly impacted administrators’ considerations and obligations when imposing any out-of-school suspension for a school rules violation. In particular, prior to suspending or expelling a student under M.G.L. c. 71, § 37H 3/4, administrators are now required, with certain exceptions, to use alternatives to removal, and must document the use and results of such alternatives. While administrators at the secondary level confirmed they have previously used alternative remedies in lieu of suspension (i.e. mediation, conflict resolution, restorative justice, and collaborative problem solving), most acknowledged that this was an area of growth for them. In particular, how to facilitate and implement alternatives, as well as staff buy-in to alternative to discipline, were noted as areas of growth.

Recommendation

It is recommended that the District schedule training for administrators on alternatives to suspension. Specifically, administrators should receive training on effective types of alternatives to suspension, and how to facilitate such alternatives with students.

4. Appropriately Identifying Supports for Students

At the elementary level, it was noted that there is variability amongst the different elementary schools in their response to student dysregulation. Student dysregulation may result in removal from one building, but not necessarily another. A reason for the difference was noted to be that staff working in substantially separate programs are more equipped to deal with certain behaviors, which helps keep the student in school during dysregulation, while staff in inclusion settings, or buildings without BCBA's, are less equipped to deal with student dysregulation, and may rely on removing students. It was noted that there is a need to work on identifying students who may need an IEP for support with dysregulation, and to work on appropriately identifying the correct disability category for students already on IEPs to ensure the proper supports.

Recommendations

If a school is continuing to remove a student for dysregulated behavior, the school should consider its child find obligations if the student is not on an IEP, or, if the student is on an IEP, the IEP Team should reconvene to consider whether the appropriate disability category(ies) have been identified, whether the student needs additional evaluations, and whether there are any additional supports that can be added to the IEP to address the dysregulation. To the extent the District is able, BCBA support should be available at each building.

5. Tracking Number of Days of Suspension for Purposes of Manifestation Determination Reviews

Administrators at the secondary level understood that a manifestation determination review (MDR) is required prior to the eleventh (11th) day of removal. There was inconsistency among those administrators as to their level of familiarity with the MDR requirements, but most acknowledged that the special education department is responsible for facilitating MDRs. There was also inconsistency as to whether administrators were tracking the number of days of suspension, or if the special education department was responsible for doing so. It was noted that the elementary level administrators generally did not need to do MDRs as the elementary students being suspended were not being suspended over ten (10) days consecutively or cumulatively during the school year.

Recommendation

Although the special education department is best suited to organize and facilitate the MDRs, it is recommended that both the special education department and the principals and assistant principals track the number of days a student is suspended in a school year in order to flag when an MDR will be necessary. MJK is providing a checklist to help administrators and the special education department follow the required components of an MDR.

Conclusion

The goal of the audit, including the recommendations being provided, are to ensure the District is in compliance, and using best practices, to create safer and healthier schools for students of the District. MJK would like to thank the District, particularly those who participated in the interviews, for their time and transparency. A comprehensive review of District policy, procedure, and process was able to occur because staff were open as to what was working, and, conversely what was not. MJK encourages the District to continue the dialogue, particularly after the recommendations have been implemented.