

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**
One Judiciary Square
441 Fourth Street, NW
Washington, DC 20001-2714
TEL: (202) 442-9094
FAX: (202) 442-9451

In RE: THE STUDENT

Name of School Attending:
KRAMER MIDDLE SCHOOL

Case No.:
Student ID No.:

**STUDENT DISCIPLINE
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

I. Introduction

Date of Incident: January 26, 2012

Date of Hearing: February 9, 2012 Time: 9:15 a.m.

Proposed Disciplinary Action: Long Term Suspension of 53 days
(January 26 –April 11, 2012)

Parties at Hearing:

II. Recommendation of Administrative Law Judge

- Judgment for Appellee (DCPS): Affirm Proposed Disciplinary Action
- Modify Proposed Disciplinary Action
- Judgment for Appellant (Student): Dismiss Proposed Disciplinary Action

III. Jurisdictional Statement

Pursuant to a Memorandum of Understanding entered between the District of Columbia Public Schools (DCPS) and the Office of Administrative Hearings (OAH), OAH serves as the Chancellor's designee for student discipline hearings required to be held before an impartial hearing officer. OAH is an independent agency that is a neutral, impartial tribunal that holds hearings and decides appeals from various agency decisions. DCPS is bound by these findings of fact and conclusions of law and may not change them. Based on these findings of fact and conclusions of law, DCPS will determine the appropriate discipline to be imposed. Although a recommendation for discipline has been made in these findings, DCPS is not bound by the recommendation and may impose any discipline permitted by the student discipline regulations. Applicable regulations can be found in the District of Columbia Municipal Regulations (DCMR) at 5 DCMR B2500 (DCPS student discipline regulations) and 1 DCMR 2900 (OAH student discipline rules).¹

IV. Due Process

Pursuant to the District of Columbia Public School's (DCPS) student discipline regulations, a student who has been suspended for 11 days or more or who has been expelled shall have a disciplinary hearing before an impartial hearing officer. 5 DCMR B2505.15. The regulations require that DCPS provide the parent with written notice of the recommended disciplinary action that sets forth the reasons for the discipline and that DCPS notify the parent in writing that a hearing is scheduled at OAH. 5 DCMR B2506.2.

¹ Copies of the applicable regulations in the DCMR can be found on line at <http://www.dcregs.dc.gov/>.

DCPS notified the student's mother by mail and email that a hearing was scheduled at OAH on February 9, 2012 at 9:15 a.m. The parent and the student appeared for the hearing and were given the opportunity to present evidence and cross-examine DCPS's witnesses. The following witnesses from Kramer Middle School testified on behalf of DCPS: [REDACTED]

[REDACTED]. [REDACTED], student's mother, testified; the student did not. Accordingly, due process procedures have been properly followed.

V. Findings of Fact

THE STUDENT is a 12 year old, seventh grade student at Kramer Middle School. On January 26, 2012, a master teacher was observing her social studies class. THE STUDENT was reading in a loud voice, when the social studies teacher asked her to use her inside voice. Exhibit 103. She continued with a loud voice. Later, she lay across a table, screaming. Ex. 2. The master teacher who was observing told her to leave the classroom. She refused. THE STUDENT referred to him as a "visitor;" she did not know he was a master teacher. THE STUDENT was escorted by security to another classroom for a short time, and then returned to her social studies class. On her return, she continued to act out, turning over a table, and falling to the floor. She was removed from the classroom and taken to the Assistant Principal's Office, where she provided a statement that corroborated her acting out, though she denied the allegation of using profanity.

THE STUDENT performs below her abilities academically. She has been suspended from school three times this academic year before the January 26, 2012, incident for misbehavior and theft.

Ex. 110. Mr. [REDACTED], Wrap Care Coordinator, has been working closely with her. Her mother and school authorities agree that THE STUDENT is asking for help. Ms. [REDACTED] is arranging for therapy for THE STUDENT.

VI. Conclusions of Law and Appropriateness of Proposed Disciplinary Action

The Notice of Proposed Disciplinary Action charged the student with “interfering with school authorities or participating [in] a major disruption of the school’s operation,” which is a Tier IV infraction under DCPS’s regulations. 5 DCMR B2502.4(a)(3). Based on the established facts in this case, I find that the student has committed the infraction charged. For Tier IV infractions, the regulations provide for the following possible disciplinary responses: off-site Short-Term Suspension; off-site Medium-Term Suspension; or off-site Long-Term Suspension. 5 DCMR B2502.4(b).

In this case, DCPS recommended a disciplinary response of Long-Term Suspension. The regulations provide that disciplinary responses should be “logical, appropriate, and instructive.” 5 DCMR B2500.9. In making a recommendation, I have considered the nature of the infraction, circumstances relating to the infraction, the age of the student, and the student’s previous behavioral history. 5 DCMR B2500.9.

Specifically, I have considered that a visitor in the classroom, known to DCPS as a master teacher, was a stranger to THE STUDENT. His presence in the classroom might have confused her, a factor that could have had a role in her behavior, but does not excuse it. A social studies teacher she knew told her to talk in a quieter voice and to stop acting out, instructions she ignored. She continued her misbehavior even after time-out in another classroom. Such behavior detracts from the educational experience for all students in the classroom. THE

STUDENT has had a rough academic year, with this being her fourth suspension for inappropriate behavior. Taking her off-site for this suspension will give her the opportunity to concentrate on academic work and appropriate classroom behavior. The proposed long term suspension is an appropriate consequence for THE STUDENT's behavior. Therefore, I recommend that DCPS affirm the proposed disciplinary action

This is NOT a final administrative decision. These findings of fact and conclusions of law are being sent only to the District of Columbia Public Schools, Office of Youth Engagement, in order for DCPS to issue a Final Notice of Disciplinary Action, which will include a copy of this recommendation.

Date: February 9, 2012

Margaret A.Mangan
Administrative Law Judge

Certificate of Service:

I hereby certify that on _____, 2012, this document was caused to be served upon the District of Columbia Public Schools by uploading the document to DCPS's Student Behavior Tracker (SBT).

Clerk / Deputy Clerk / Paralegal