

**SPECIAL MASTER, IMPLEMENTATION COMMITTEE, AND
PLAINTIFF COMMENTS ON THE SIXTH DRAFT OF THE
CODE OF CONDUCT SUBMITTED ON JUNE 7, 2018
(INCLUDING DISTRICT RESPONSES AND REVISIONS)**

June 14, 2018

DEPARTMENT OF JUSTICE [MONDAY, JUNE 11]

DOJ has no objection to Draft 6.

DOJ supports the District's efforts to make the code clearer. We continue to be concerned about the use of the generic term "fighting" to describe fights that threaten safety. If the District does not change this term it will need to closely monitor implementation to ensure that the use of this term does not create confusion that leads to non-compliance with the USP.

Response: Draft 7 uses the term "fighting," the District will closely monitor implementation to ensure that the use of this term does not create confusion that leads to non-compliance.

MENDOZA PLAINTIFFS [TUESDAY, JUNE 12]

With the [] understandings [below], Mendoza Plaintiffs do not object to Draft 6 of the code of conduct and believe it is preferable over the current operative GSRR.

The Mendoza Plaintiffs share the DOJ's concern that fights that threaten safety should not be described using the generic term "fighting" and that the District will have to closely monitor application of the infraction to ensure compliance with the USP.

Response: Draft 7 uses the term "fighting," the District will closely monitor application of the infraction to ensure compliance with the USP.

[Page 12] They also have some concern that Draft 6 allows inappropriate language directed at staff to be treated as a level 3 offense (rather than a level 2) for which exclusionary discipline can be imposed (Draft 6 at 12), but understand that administration of suspensions for such an offense are still subject to the USP's "ongoing and escalating" limitation.

Response: In response to this concern, and concerns raised by the Governing Board discussion on June 12, Draft 7 includes the following changes (in red): "A *principal/assistant principal administrator* may treat a student swearing at a staff member as a Level 3 consequence *where the circumstances demonstrate a lack of respect towards authority (rather than just the use of a curse word or words).*"

[Page 12] With respect to Positive Intervention Centers (“PICs”), I understand from a conversation we had and from the Draft 6 statement that “Staff will document each student’s name and where they were sent from...” (Draft 6 at 5) that the District is documenting referrals to PICs. As you know, a major focus of the USP’s discipline section (and of Mendoza Plaintiffs) is reduction of exclusionary discipline. We therefore appreciate that the District will “review this [PIC] information regularly [] to ensure appropriate use of PIC...” (id.) However, to be clear, we believe data on PIC referrals (by school, teacher, and student (including frequency of each) broken down by race and ethnicity) needs to be maintained and regularly reviewed to ensure consistency and as part of the above-quoted District efforts to monitor overuse/misuse of PIC referrals (and/or to provide additional training to particular teachers). Can the District please confirm that it would so track and monitor referrals to PICs?

Response: The District confirms that the ongoing PIC monitoring will include reviewing for racial/ethnic disparities in PIC referrals, if or where they exist.

SPECIAL MASTER / IC MEMBER KELLY LANGFORD [June 14, 2018]

The Special Master and IC Member Langford support Draft 6 moving forward.

[Page 2] How Can I Get More Information Or Make An Oral or Written Complaint?

Add Director of Discipline to the list of individuals to complain to.....

Response: The list includes the Discipline Review Team, but staff added the language in red for clarity: “Students or parents/guardians may make a complaint related to discrimination, harassment, hazing, dating abuse, bullying, or unfair disciplinary actions with the site principal, assistant principal, the Discipline Review Team (the Discipline Director or the Compliance Liaison) at 225-4316, or online at www.tusd1.org/deseg.”

[Page 5] Positive Intervention Centers. This program was piloted at 12 schools the last semester of 17/18 school year. Is there a central systematic collection or data tracking plans of who is sent to PIC and for what infractions? How do we know who, how often, and how effective is the program? Students are still being excluded from their classroom instruction with a subject matter certified teacher. This data should be collected and analyzed regularly.

Response: For 2018-19, there will be a central systematic collection of data regarding who is sent to PICs and for what infractions (including reviews for racial/ethnic disparities).

[Page 4] Positive Alternative to Out-of-School Suspension. The Abeyance contract doesn’t shorten or eliminate suspension days. This statement is completely inaccurate and should be deleted from the document.

Response: Staff revised as follows (changes in red): “An Abeyance Contract is a behavior contract that may be offered to a student who is facing a suspension. The Abeyance will shorten or eliminate the number of days a student is out of school suspension.”

[Page 8] Possession or Use of Drugs or Alcohol

First offense: three day suspension with two days waived if student agrees to attend substance abuse workshop and, upon return to school an intake interview and to be searched for drugs and alcohol.

It is my understanding that school counselors will be responsible for providing the substance abuse workshops. School counselors do not usually have the training or the necessary credentials to provide substance abuse workshops. Possession and use of drugs and alcohol are two of the highest violations of the code of conduct. It is crucial that qualified staff lead these substance abuse workshops if it is to have a positive student outcomes.

Response: the District agrees that qualified staff should lead the substance abuse workshops and will work to identify and train such staff for the roll-out of this initiative.