I. Special Education Issues
   A. MDRs
      i. Frequently do not occur even though federal law requires them
      ii. Schools rarely know how to do them properly
      iii. The parent is a mandatory participant, but is rarely invited
   B. Pushout
      i. Lots of in-school “go to the guidance counselor,” especially for special eds

II. Pre-Suspension Issues
   A. EMS. Administrators call EMS unnecessarily, when there is no apparent danger to
      the student or to the school community. I.e., E.M., I.R., M.M.
   B. Improper Investigation
      i. School officials are ignorant of their responsibilities under the Chancellor’s
         Regulations, but the respondent is the one to suffer the consequences
      ii. It is unclear whether schools have authority to require SSAs to cooperate with
         the schools’ investigations.
   C. Informal suspension imposed before the superintendent’s suspension is approved
   D. No Contest
      i. Schools frequently improperly encourage parents to plead no contest
      ii. Schools suggest to parents that they will reduce the length of the suspension if
         parents plead no contest, but schools can only recommend a length
      iii. Without infraction codes in the suspension letter, it is unclear to what charge
         the parent is pleading no contest
   E. Access to witnesses
      i. Schools frequently refuse to permit staff to speak with advocates. E.g., L.M.,
         J.W., B.R.
      ii. Students often don’t know a classmate’s last name or contact information
      iii. When the school fails to properly investigate by speaking with all witnesses,
         and a witness’s parent declines to permit the student to come to the hearing,
         the respondent’s right to due process is compromised without recourse
      iv. Very difficult (impossible?) to subpoena witnesses who are not students or
         DOE employees, including SSAs
      v. Many schools are improperly redacting the names on witness statements;
         others are failing to redact phone numbers and addresses
      vi. No right of access to statements until just before the hearing.
   F. Negotiation
      i. When is the school permitted to drop or withdraw the charges?
         a. E.B.: Mr. Marlboro told at PS 41 that the school could not drop
            the charges because of the seriousness of the case.
      ii. Schools tell parents or students that they face a principal’s suspension, but
         then it turns into a superintendent’s suspension. This should only be for Level
         5 infractions.
   G. Video
      i. No right to a copy of video unless the school shows it to the student or parent,
         or plans to use it at the hearing
      ii. No way to dispute the school’s assertion that an incident was not caught on
         video
iii. Very difficult (impossible?) to subpoena video, even if you are certain that it exists (i.e., another student who was involved was shown a video).

H. Translations: lack of services for non-English speaking clients.

III. Records
A. Sustained charges
   i. When can sustained charges be removed from a student’s record? Regs suggest it is a dispositional issue but experience and anecdotal evidence suggest otherwise.
   ii. Who has the power to expunge charges?
   iii. In what systems(s) are the charges noted? SOHO? ATS? OORS?
   iv. Do sustained charges affect the transfer or high school matriculation process?
   v. When and how are suspensions made available to the police or to judges?
   vi. How are charges listed in a student’s records? As written descriptions of the incident, as infraction codes from the Discipline Code, or both?

B. Dismissed charges
   i. When charges are dismissed after a hearing, are they actually deleted or is there just a dismissal code noted as the outcome?
   ii. Judges aren’t able to distinguish between charges that were sustained and charges that were dismissed

IV. Suspension Policy
A. Are suspensions intended to be punitive? Preventive?
B. Pushout
   i. Lots of in-school “go to the guidance counselor,” especially for special eds
   ii. Schools repeatedly suspend students they want to exclude; this is facilitated by the breadth of the Discipline Code
C. The Discipline Code
   i. Not reliably distributed to students and parents
   ii. No discussion or review of the Discipline Code with students in school
   iii. Infractions are drafted much too broadly
      a. What is “serious injury”? What is a “substantial risk”? What is “group violence”? What is “extreme force”?
      b. Breadth of infractions facilitates school pushout
D. Overly harsh disciplinary responses
   i. Students are being suspended for minor offenses which do not justify suspension; e.g., wearing a hat
   ii. When many infraction codes could apply (i.e., for fighting), the most serious infraction code is listed.
      a. Ex. E.B., a second grader who hit a teacher in the shoulder and was charged with A51, a Level 5 infraction, “Using force against or inflicting or attempting to inflict serious injury against school personnel or school safety agents.” A34 or A43 would be more appropriate.
   iii. Zero tolerance
   iv. Non-use of guidance interventions
   v. High number of incidents that result in superintendent’s suspension begin as minor altercations between school staff and students, or SSAs and students
E. Disproportionate enforcement  
   i. Student of color and special ed students are suspended at highly disproportionate rates  
F. All hearings are scheduled for the same time of the morning  
G. Minimum penalties for certain charges  
   i. The Bronx hearing office (at least) reports that certain infractions, if sustained, are going to result in minimum 30-day suspensions regardless of circumstances or the school’s recommendation  

V. At the Suspension Site / Alternative Learning Center  
A. Location and transportation  
   i. Sites are frequently very far away from the student’s home, making parents reluctant to send their children  
   ii. It is unclear which school is responsible for providing the student with metrocards, and when  
      a. i.e., student had to pick up a metrocard every day from his home school in order to attend the ALC  
   iii. Sites, especially for middle and high school, may feel more dangerous to parents than their children’s home schools, discouraging attendance.  
B. Classwork and homework not reliably provided  
   i. Suspended students have a right to all of the classwork and homework from their regular classes while they are suspended, but it is not always provided.  
   ii. Policies regarding curriculum are inconsistent: some ALCs use their own curriculum and do not bother requesting work from the home school; others rely on the home school to provide classwork and homework  
   iii. Frequently the work provided at ALCs is busy work or work at a much lower academic level.  
      a. Note: This problem has markedly improved in recent years.  

VI. At the Hearing  
A. Evidence  
   i. It is unclear what mitigating or due process evidence is relevant / admissible (i.e., previous harassment by the victim)  
   ii. The respondent is prejudiced if the school cannot properly authenticate the statements it collected; i.e., if the school official present at the hearing was not the investigating official  
   iii. Hearing officers are inconsistent regarding what is relevant, what is sufficient authentication for documents, etc.  
B. Cover sheet  
   i. Different hearing offices have different takes on whether the respondent is entitled to view the school’s cover sheet, which contains information, such as the student’s previous suspensions, which the respondent may dispute  
C. Policy about identifying students: This is not a criminal trial; witnesses should not have to point at the respondent to identify.  
D. No Self-Defense  

VII. Post-Suspension Issues  
A. Modification of charges
i. Respondent’s right to due process is compromised when charges are significantly modified. E.g., L.M.

ii.
1. Using Discipline Code to promote restorative practices
2. Defining ambiguous language
3. Lots of smaller changes; like the columns
   a. Include a section about how suspension should be preventive, not punitive
   b. Provide for suspensions between 10 and 30 days. Why is there no possible response between two weeks’ suspension and six weeks’ suspension? It’s routine.
   c. Include more directions similar to “(For fighting, use B37.)”
      a. Emphasize that Level 5 infractions are rare and only for extreme circumstances.
   d. Get rid of automatic suspension for fighting
   e. Downgrade creating a substantial risk of serious injury
   f. What is “serious injury”? What is a “substantial risk”? What is “group violence”? What is “extreme force”? 
   g. Far fewer suspensions permitting anything more than ten days. So, more constraining language like (G-J only)
   h. Bullying has to be a repeated offense; not just an isolated incident. Lois Herrera.
   i. DEFINE SERIOUS INJURY: Penal code, Denver code
   j. HOW TO EMPHASIZE THAT LEVEL 4 & 5 INFRACTIONS ARE VERY SERIOUS.
   k. WHERE SHOULD BLOODY NOSE GO?
   l. Denver, Cleveland, Some small parish, STOPSCHOOLSTOJAILS
   m. FIND SUSPENSION LETTERS WHERE THE INFRACTION CODE IS NOT OBVIOUS.

4. Education regarding how the Discipline Code is implemented
   a. (See above)

From Cincinnati:

**Serious Bodily Injury**

Students must not contribute to or cause bodily injury to themselves or others that involves 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 bodily capability.
Effective policies use developmentally appropriate disciplinary techniques that keep students in the school environment and learning, limiting the amount of time spent outside of class. The use and duration of suspensions and expulsions should be limited as much as possible. Every reasonable effort should be made to correct student misbehavior through school-based resources at the lowest possible level.

Non-Punitive Approach, Emphasizing Prevention & Effective Intervention

School discipline is best accomplished by preventing misbehavior before it occurs, and using effective interventions after it occurs. Additionally, school safety and academic success are formed and strengthened when all school staff and personnel build positive relationships with students and are actively engaged in their lives and learning. Thus, the most successful discipline policies are those that take a non-punitive approach to addressing student misbehavior and promote the development of a positive school culture. Their policies focus more on the behaviors to be encouraged than on behaviors to be avoided. They emphasize the manner in which students will learn appropriate behavior more than the ways in which inappropriate behavior will be punished. They also promote the use of non-punitive responses to student misbehavior, rather than resorting to out-of-school suspensions, expulsions, and arres
Talk about how a principal concern of the Coalition is the frequent use of suspension and especially long-term suspension as a disciplinary response; this is a topic we hope to discuss on an ongoing basis. Today we have a couple of specific suggestions for the Code.

STANDARDS OF BEHAVIOR: ACCOUNTABILITY AND SUPPORT – Page 1
All members of the school community — students, staff and parents — must know and understand the standards of behavior which all students are expected to live up to and the consequences if these standards are not met. The Citywide Standards of Discipline and Intervention Measures (the Discipline Code) provides a comprehensive description of unacceptable behavior, including incidents involving drugs or weapons. It includes the range of permissible disciplinary and intervention measures which may be used when students engage in such behaviors as well as a range of guidance interventions schools may use to address student behavior. The Code applies to all students, including those with disabilities. Students with disabilities are entitled to additional due process protections described in Chancellor’s Regulation A-443.

In providing a range of permissible disciplinary measures, the Discipline Code ensures both consistency and equitable treatment for all students and enables a principal and the Chief Executive Officer of the Office of School and Youth Development or other designee of the Chancellor or the Community Superintendent to exercise discretion and educational judgment. Principals, teachers, school staff, students and parents need to know the disciplinary measures that can be taken when a student misbehaves or substantially disrupts a classroom. Guidance interventions are included because inappropriate behavior or violations of the Discipline Code may be symptomatic of more serious problems that students are experiencing. It is, therefore, important that school personnel be sensitive to issues that may influence the behavior of students and respond in a manner that is most supportive of their needs. The use and duration of suspensions should be limited as much as possible. Every reasonable effort should be made to correct student misbehavior through guidance interventions and other school-based resources. Appropriate disciplinary responses should emphasize prevention and effective intervention, prevent disruption to the student’s education, and promote the development of a positive school culture.

For pages 22, 23, and 24: [Stars should appear after “Infractions – Dangerous or Violent Behavior” and “Infractions – Seriously Dangerous or Violent Behavior”]

**These infractions are limited to only the most serious circumstances and should only be invoked when no less severe infraction is applicable.**