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Briana Kelly
Assistant Director, Restorative Practices & Student Discipline
Washington Office of the Superintendent of Public Instruction
P.O. Box 47200
Olympia, WA 98504-7200
StudentDiscipline@k12.wa.us

Re: Proposed Permanent Discipline Rules, Chapter 392-400 WAC – Public Comment

Dear Ms. Kelly,

The ACLU-WA submits these comments in response to CR-102 with proposed permanent rules for student discipline, Chapter 392-400 WAC.

As a member of the 2018 Student Discipline Taskforce, the ACLU-WA was honored to partner with OSPI and several other organizations to draft many of the school discipline rules that OSPI now seeks to permanently abandon during this rule making process. The rules adopted during that process were carefully tailored to address problematic exclusion practices that sustained the school-to-prison pipeline and disproportionately harmed students who live with disabilities, students of color, and students who live in poverty.

We write today to share significant concerns with the proposed rules. The safeguards developed in 2018 to reduce unnecessary school removals and to ensure parents received proper notice are gone. The proposed rules will lead to increased exclusions, lack transparent and consistent guidelines for schools to utilize when removing children from school, and do not require fair and clear notice to families regarding removals.

We share the concerns that many other civil rights and youth advocacy organizations have expressed to OSPI throughout this review process. We highlight the following:

- WAC Proposed rule WAC 392-400-025(2), WAC 392-400-330 allows for unregulated exclusions from classroom. Under previous rules, exclusions were permissible for behavioral violations but always required parental notification when the exclusion exceeded one day, and suspension and expulsion due process protections were triggered.

- Proposed rules do not require consideration of lesser forms of discipline prior to imposing long-term suspensions or expulsions. (see Proposed Rule WAC 392-400-440).
- Parental notification rules are weakened. (See Proposed Rule WAC 392-400-335). Under the pre-existing rules the districts were required to provide notice to parents regarding classroom exclusions as soon as possible and in a language the parents understand. Under the new rules, there is no notice requirement.

These changes are troubling. The proposed rules rely on individual teacher and school discretion to deliver equitable practices while removing requirements that schools seek alternatives to exclusions. They also lessen parents' rights. Rather than continuing to lead the nation in thoughtful and restorative school discipline practices, by permanently implementing these rules, Washington will be moving backwards.

We urge OSPI to reconsider the adoption of these proposed rules. We hope that OSPI returns to a more open and inclusive rule-making process that brings in families, students, and advocates to help build policies that support all students.

Sincerely,

/s/ Caedmon Magboo Cahill

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