

**(X) Required**

**( ) Local**

**( ) Notice**

**CODE OF CONDUCT**

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**Policy 5300.00****WHY DO WE HAVE A CODE OF CONDUCT?**

1. Students need to be supported and engaged in school in order to promote strong character and appropriate conduct. It is also essential that students are able to take age-appropriate responsibility for their own behavior.

Student engagement is developed when students are provided with multiple opportunities to participate in a wide range of positive social activities while interacting with caring, supportive adults. This helps to ensure that students are better able to:

- recognize and manage emotions;
- develop caring and concern for others;
- establish positive relationships;
- make responsible decisions; and
- handle challenging situations constructively and ethically.

2. Effective and engaging instruction and positive behavioral supports are the foundations of a positive school climate. School teachers, administrators, and other staff are encouraged to set high expectations for student success, build positive relationships with students, as well as teach and model appropriate behaviors for success. Modeling respectful, positive behavior is especially critical during disciplinary interventions.

3. All adults – teachers, principals, administrators, school staff, parents/guardians, and the larger community – have an obligation to help students become good citizens and lead productive lives by modeling desired behaviors and cultivating those behaviors in students.

4. Appropriate conduct and strong character are reflected in a civil, respectful, healthy and caring environment.

Student discipline and support policies and practices will be implemented in a manner which is caring, equitable, respectful and based on trust among administration, staff, students, and families and holds all individuals accountable. This will help students:

- learn from their mistakes;
- understand why their behavior was unacceptable;
- acknowledge the harm they caused or the negative impact of their actions;
- understand what they could have done differently;
- take responsibility for their actions;
- learn pro-social strategies and skills to use in the future; and
- understand that further consequences and/ or interventions will be implemented if their unacceptable behavior persists.

## **Policy 5300.05**

## **INTRODUCTION**

The Board of Education is committed to providing a safe and orderly school environment where students may receive and district personnel may deliver quality educational services without disruption or interference. The school district is committed to:

- ensuring each student is healthy, safe, engaged, supported, and challenged;
- helping students develop self-discipline and social and emotional growth; and
- guiding students in improvement and corrections of inappropriate, unacceptable and unsafe behaviors.

Responsible behavior by students, teachers, other district personnel, parents/guardians and other visitors is expected, as it is essential to achieving this goal.

For this to happen, everyone in the school community must demonstrate and offer respect to others.

With the recognition that all children make mistakes and that this is part of learning, schools must help all students learn to learn from their mistakes. School discipline policies should support students and teachers and ensure that everyone is treated with dignity and respect.

Student engagement is also integral to creating a positive school climate and culture that effectively fosters students' academic achievement and social/emotional growth. Providing students with multiple opportunities to participate in a wide range of pro-social activities and at the same time to develop a bond with caring, supportive adults reduces negative behavior. Examples can include: providing students with meaningful opportunities to share ideas and concerns and participate in school-wide initiatives; student leadership development; periodic recognition of student's achievements in a range of academic and co-curricular areas; using corrective feedback and developing positive behaviors.

The district has a long-standing set of expectations for conduct on school property and at school functions. These expectations are based on the principles of civility, mutual respect, citizenship, character, tolerance, honesty and integrity.

All persons on school property must behave in a safe manner.

The Board recognizes the need to clearly define these expectations for acceptable conduct on school property, identify the possible developmentally appropriate, graduated consequences of unacceptable conduct, and to ensure that discipline, when necessary, is administered promptly and fairly, keeping in mind the goal is not to penalize, but to teach students there are consequences to actions and choices. To this end, the Board adopts this code of conduct ("code"), which is based upon education laws, regulations, and Board policies.

Unless otherwise indicated, this code applies to all students, school personnel, parents/guardians and other visitors when on school property, during virtual learning, or attending a school function.

## **Policy 5300.10            DEFINITIONS**

For purposes of this code, the following definitions apply.

“Behavior” is the way in which one acts or conducts oneself, especially towards others. It is expected that students, staff, and visitors will conduct themselves in such a way that is in line with this Code of Conduct.

"Disruptive student" means an elementary or secondary student under the age of 21 who is substantially disruptive of the educational process.

“Gender” means actual or perceived sex and shall include a person’s gender identity or expression.

“Gender expression” is the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyle, activities, voice, or mannerisms.

“Gender identity” is one’s self-conception as being male or female, as distinguished from actual biological sex or sex assigned from birth.

"Parent" means a parent, guardian, or person in parental relation to a student.

“Protective hairstyles” includes, but is not limited to, such hairstyles as braids, locks, and twists.

“Race” includes traits historically associated with race, including, but not limited to, hair texture and protective hairstyles

“Relationships” are the way in which two or more people regard and behave toward each other.

“Respect” is an act of treating everyone in the school community with dignity. This is demonstrated by: treating others with kindness and care, being polite and using manners, expressing thoughts in opinions in ways that are polite and courteous, using a polite tone of voice and body language, listening to others who are speaking to you, keeping one’s hands to one’s self and not violating others’ personal space.

“Responsibility” is an obligation to behave in accordance with social norms and being held accountable for one’s actions.

“Restorative Practices” are a response to student actions that violate the dignity, safety, or well-being of others by connecting the person responsible for the harm with those who have been harmed, in order to reach a resolution that guides, and assists the person responsible for the harm in accepting responsibility, apologizing for the harm, making meaningful reparation and improving the relationship between parties.

"School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, or in or on a school bus, as defined in Vehicle and Traffic Law §142.

"School function" means any school-sponsored extracurricular event or activity.

"Sexual orientation" means actual or perceived heterosexuality, homosexuality or bisexuality.

"Violent student" means a student under the age of 21 who:

1. Commits an act of violence upon a teacher, administrator, or other school employee
2. Commits, while on school district property or participating in remote instruction or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function.
3. Possess, while on school district property or participating in remote instruction, or at a school function, a weapon such as a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death.
4. Displays, while on school district property or participating in remote instruction or at a school function, what appears to be a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing death or physical injury.
5. Threatens, while on school district property or participating in remote instruction or at a school function, to use any instrument that appears capable of causing physical injury or death.
6. Knowingly and/or intentionally damages or destroys the personal property of a teacher, administrator, other school district employee, or any person lawfully upon school district property or at a school function.
7. Knowingly and intentionally damages or destroys school district property.

"Weapon" means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, slingshot, metal knuckle knife, box cutters, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray, or other noxious spray, explosive or incendiary bomb, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

## **POLICY 5300.15 STUDENT RIGHTS AND RESPONSIBILITIES**

### **A. Student Bill of Rights**

The district is committed to safeguarding the rights given to all students under federal and state law and district policy. In addition, to promote a safe, healthy, orderly and supportive school environment, all district students have the right to:

1. All children have the right to a healthy, secure, nurturing educational experience.
2. All children have the right to live in circumstances which permit healthy intellectual, emotional, physical, and moral development.
3. All children have the right to a free, sound, basic education.
4. Each child has the right to an education appropriate for his or her individual needs.
5. All children have the right to an education, which respects their culture, race, gender/gender identity, socioeconomic background and the language of their home.
6. All children have the right to schools and educational programs which are effective.
7. All children have the right to educational programs, which prepare them for jobs, for college, for responsible family life and for citizenship in a self-governing society.
8. All children have the right to pursue their education without fear.
9. All children have the right to the resources needed to secure their educational rights.
10. All children are entitled to an education, which involves responsibilities as well as rights.
11. All children take part in all district activities on an equal basis regardless of actual or perceived race, weight, color, creed, national origin, ethnic group, religion, religious practice, gender (including gender identity and expression) or sexual orientation or disability.
12. All children are to be respected as an individual and treated fairly and with dignity by other students and school staff.
13. All children are entitled to express one's opinions, either verbally or in writing, as long as it is done so in a respectful manner.
14. All children are entitled to present their version of the relevant events to school personnel authorized to impose consequences.
15. All children are able to access school policies, regulations and rules and, when necessary, receive an explanation of those rules from school personnel.
16. All children are to be provided with clear expectations regarding:
  - a. Course objectives, requirements and state standards;
  - b. Grading criteria and procedures;
  - c. Assignment requirements and deadlines; and
  - d. School and classroom rules and expectations regarding behavior.

### **B. Student Responsibilities**

All district students have the responsibility to:

1. Contribute to maintaining a safe, supportive and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. Help make school a community free of violence, intimidation, bullying, harassment, and discrimination.
3. Be familiar with and abide by district policies, rules and regulations dealing with student conduct.
4. Attend school every day, in person or remotely, unless they are legally excused and be in class, either in person or remotely, on time, cameras on (if remotely), and prepared to learn.
5. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
6. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
7. Use a polite tone of voice and appropriate body language, listening when others are speaking to you.
8. To be truthful when speaking with school officials regarding Code of Conduct violations.
9. Respect personal space.
10. Work to develop mechanisms to manage emotions and reactions and resolve conflict with others.
11. Ask questions when they do not understand material or directions.
12. Seek help from the teacher, counselor, or an administrator in solving problems.
13. Dress appropriately for school and school functions.
14. Accept responsibility for their actions.
15. Conduct themselves as representatives of the district when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
16. Familiarize themselves with and comply with all health-related, safety, or emergency protocols as established by the District.

**Policy 5300.20****ESSENTIAL PARTNERS**

All members of our learning community – including students, staff, parents and engaged service providers – must assume a responsible role in promoting behavior that enhances academic and social success. Courteous, respectful, and responsible behavior fosters a positive climate in the learning community.

Those responsibilities include but are not limited to the following:

A. Parents

The Code of Conduct is a guide for understanding the personal, social, and academic behaviors which are expected from your child while at school and school functions. This Code also guides how school staff will work with you and your child to help demonstrate positive behaviors and enjoy academic success.

To achieve this goal, parents will be encouraged to promote participation in restorative practices to resolve incidents and conflict and to support their child in receiving the maximum benefit from a restorative justice approach.

To achieve this goal, all parents are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the parents and the school community and collaborate with the district to optimize their child's educational opportunities.
2. Send their children to school ready to participate and learn.
3. Ensure their children attend school regularly and on time, whether participating remotely or in person.
4. Refrain from recording, photographing, or capturing a teacher's instruction.
5. Require their children be dressed and present in a manner consistent with the student dress code, whether attending in-person or remotely.
6. Ensure absences are excused.
7. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
8. Know school rules and help their children understand them so that their children can help create a safe, respectful, supportive school environment.
9. Convey to their children a supportive attitude toward education and the district.
10. Build positive, constructive relationships with teachers, other parents, and their children's friends.
11. Tell school officials about any concerns or complaints in a respectful and timely manner.
12. Help their children deal effectively with peer pressure.
13. Inform school officials of changes in the home situation that may affect student conduct or performance.
14. Provide a place for study and remote learning, and ensure homework assignments are completed.



15. Familiarize themselves with and comply with all health-related, safety, or emergency protocols as established by the district
16. Be respectful and courteous to staff, other parents/guardians and students while on school premises.

## B. Staff

The Code of Conduct is a guide for supporting positive student behavior at school. It is intended to help staff prevent student misconduct through the use of effective strategies and systems. It will provide guidance for intervening effectively and appropriately if students don't meet expected standards of behavior or violate the school rules and policies. Concerns about safety and school climate should be brought to the school principal so staff can work together to maintain a safe and orderly learning and work environment.

All staff are expected to understand that students may come to school having experienced trauma in their lives, which can impact their behavior in school (e.g., anger, outbursts, withdrawal, self-injury).

### 1. Teachers

To achieve this goal, all district teachers are expected to:

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex, which will strengthen students' self-worth and promote confidence to learn.
- b. Plan and instruct lessons that engage students.
- c. Be prepared to teach.
- d. Demonstrate interest in teaching and concern for students and student achievement.
- e. Know school policies and rules, and enforce them in a fair, timely, and consistent manner.
- f. Maintain confidentiality in conformity with federal and state law.
- g. Communicate to students and parents:
  - Course objectives and requirements
  - Marking/grading procedures
  - Assignment deadlines
  - Expectations for students
  - Classroom expectations and consequences.
- h. Communicate regularly with students, parents and other teachers concerning growth and achievement.
- i. Participate in school-wide efforts to provide adequate supervision in all school spaces, in conformity with the Taylor Law.
- j. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee or any person who is lawfully on school property or at a school function.

- k. Address personal biases that may prevent equal treatment of all students in the school or classroom setting.
- l. Be open to active participation in resolving conflicts through a restorative process.

## 2. School Counselors

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression)) or sex.
- b. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
- c. Initiate teacher /student/counselor conferences and parent/ teacher/ student/ counselor conferences, as necessary, as a way to resolve problems.
- d. Regularly review with students their educational progress and career plans.
- e. Maintain confidentiality in accordance with federal and state law.
- f. Provide information to assist students with career planning.
- g. Encourage students to benefit from the curriculum and extracurricular programs.
- h. Make known to students and families the resources in the community that are available to meet their needs.
- i. Participate in school-wide efforts to provide adequate supervision in all school spaces.
- j. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is lawfully on school property or at a school function.
- k. Address personal biases that may prevent equal treatment of all students.
- l. Promote a trauma-responsive approach to addressing student behavior by supporting professional development, providing safe work environments, forming trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence.
- m. Be open to active participation in resolving conflicts through a restorative process

## 3. Other School Personnel

- a. Maintain a climate of mutual respect and dignity for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression), or sex.
- b. Maintain confidentiality in accordance with federal and state law.
- c. Be familiar with the code of conduct.
- d. Help children understand the district's expectations for maintaining a safe, orderly environment.
- e. Participate in school-wide efforts to provide adequate supervision in all school spaces.
- f. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is

- lawfully on school property or at a school function.
- g. Address personal biases that may prevent equal treatment of all students.
- h. Be open to active participation in resolving conflicts through a restorative process.

#### 4. Principals/Administrators

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, (including gender identity and expression) or sex.
- b. Ensure that students and staff have the opportunity to communicate regularly with the principal/administrators and have access to the principal/administrators for redress of grievances.
- c. Maintain confidentiality in accordance with federal and state law.
- d. Evaluate on a regular basis all instructional programs to ensure infusion of civility education in the curriculum.
- e. Support the development of and student participation in appropriate extracurricular activities.
- f. Provide support in the development of the code of conduct, when called upon. Disseminate the code of conduct and anti-harassment policies to the school community.
- g. Be responsible for enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.
- h. Participate in school-wide efforts to provide adequate supervision in all school spaces.
- i. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is lawfully on school property or at a school function.
- j. Address personal biases that may prevent equal treatment of all students and staff.
- k. Promote a trauma-responsive approach to addressing student behavior by supporting professional development, providing safe work environments, forming trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence.
- L. Be open to active participation in resolving conflicts through a restorative process.

#### 5. The Dignity Act Coordinator(s)

The Dignity Act Coordinator(s) are as follows:

High School-Dr. Letitia Payne, (845) 526-7847, [lpayne@pvcasd.org](mailto:lpayne@pvcasd.org)

Middle School-Jaime Zecca, (845) 528-8101, [jzecca@pvcasd.org](mailto:jzecca@pvcasd.org)

Elementary School-Carly Robey, (845) 528-8092, [crobey@pvcasd.org](mailto:crobey@pvcasd.org)

Their duties are as follows:

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color,

weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.

- b. Oversee and coordinate the work of the district-wide and building-level bullying prevention committees.
- c. Identify curricular resources that support infusing civility in classroom instruction and classroom management; and provide guidance to staff as to how to access and implement those resources.
- d. Coordinate, with the Professional Development Committee, training in support of the bullying prevention committee.
- e. Be responsible for monitoring and reporting on the effectiveness of the district's bullying prevention policy.
- f. Address and investigate issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is lawfully on school property or at a school function.
- g. Address personal biases that may prevent equal treatment of all students and staff.

#### 6. Superintendent

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (including gender identity and expression) or sex.
- b. Inform the Board about educational trends relating to student discipline
- c. Review with district administrators the policies of the Board of education and state and federal laws relating to school operations and management.
- d. Maintain confidentiality in accordance with federal and state law.
- e. Work to create instructional programs that minimize problems of misconduct and incidents of inappropriate behavior and are sensitive to student and teacher needs.
- f. Work with district administrators in encouraging a positive school climate, enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly and equitably.
- g. Participate in school-wide efforts to provide adequate supervision in all school spaces.
- h. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is lawfully on school property or at a school function.
- i. Address personal biases that may prevent equal treatment of all students and staff.
- j. Promote a trauma-responsive approach to addressing student behavior by supporting professional development and appropriate staffing.

#### 7. Board of Education

- a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning for all students regardless of actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex.

- b. Maintain confidentiality in accordance with federal and state law.
- c. Develop and recommend a budget that provides programs and activities that support achievement of the goals of the code of conduct.
- d. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a code of conduct that clearly defines expectations for the conduct of students, district personnel and visitors on school property and at school functions.
- e. Adopt and review at least annually the district's code of conduct to evaluate the code's effectiveness and the fairness and consistency of its implementation.
- f. Lead by example by conducting Board meetings in a professional, respectful, courteous manner.
- g. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any student, school employee, or any person who is lawfully on school property or at a school function.
- h. Address personal biases that may prevent equal treatment of all students and staff.
- i. The Board will promote a trauma-informed approach to addressing student behavior by supporting professional development, providing a safe school environment, encouraging the forming of trusting relationships with students, allowing for student choice and autonomy, and encouraging student skill-building and competence.
- j. Be open to active participation in resolving conflicts through a restorative process.

## **Policy 5300.25 STUDENT DRESS CODE**

All students are expected to give proper attention to personal cleanliness and to dress appropriately for school whether participating in person or remotely, and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. Teachers and all other district personnel should exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the school setting.

A student's dress, grooming, and appearance, including hairstyle/color, jewelry, make-up, and nails, shall:

1. Be unlikely to injure people or damage property, appropriate according to this code, and not substantially disrupt or materially interfere with the educational process.
2. Recognize that extremely short and/or see-through garments are not appropriate. Ensure that underwear is covered with outer clothing (visible waistbands and straps are not violations).
3. Include footwear at all times. Footwear that is a safety hazard will not be allowed.
4. Not cover the student's face to the extent the student is not identifiable, except for a medical or religious purpose.
5. Not include items that are vulgar, obscene, libelous, or denigrate, harass, or discriminate against others on account of, for example, but not limited to, race, color, weight, religion, religious practice, disability, creed, national origin, ethnic group, gender (including gender identity and expression), sex, sexual orientation or disability.
6. Not promote and/or endorse gangs, the use of alcohol, tobacco or controlled substances or illegal drugs and/or encourage other illegal or violent activities.

Nothing in this policy will be construed to limit the ability of students to express their gender identity through clothing, jewelry, makeup, or nail color or styles, or to discipline students for doing so. Likewise, nothing in this policy will be construed to restrict students from wearing hairstyles as a trait historically associated with race (such as hair texture and protective hairstyles like braids, locks, and twists) or to discipline them for doing so.

Each Building Principal or designee is responsible for informing all students and their parents of the student dress code at the beginning of the school year through the student handbook and any revisions to the dress code made during the school year.

Enforcement of these dress codes must be approached with careful consideration and sensitivity, with the goal of supporting students in reaching their full potential, not shaming or criminalizing them, and to minimize loss of instructional time. Staff, preferably those who have a positive relationship with the student, are expected to address dress code violations with students privately, determine if there are factors impacting the student's ability to meet the dress code, and help address these issues.

Students who violate the student dress code are required to modify their appearance by

covering or removing the offending item, and if necessary or practical, replacing it with an acceptable item. Any student who refuses to do so will be subject to discipline, up to and including in-school suspension for the day. Any student who repeatedly fails to comply with the dress code will be subject to further discipline, up to and including out of school suspension.

Decisions regarding improper dress will be at the discretion of the Elementary School, Middle School, or High School administrators.

Ref: Education Law §11(9), (10)  
Executive Law §292(37), (38)  
*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969)  
*Appeal of Parsons*, 32 EDR 672 (1993)

## **Policy 5300.30**

### **PROHIBITED STUDENT CONDUCT**

The Board of Education expects all students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, district personnel and other members of the school community, and for the care of school facilities and equipment with the goal of making school a community free of violence intimidation, bullying, harassment, and discrimination. Exclusion from the school environment and suspension will only be used when necessary to protect the safety of students and staff or when all other measures have been exhausted.

The best discipline is self-imposed, and students must learn to assume and accept responsibility for their own behavior, as well as the consequences of their mistakes or misbehavior. District personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on educating students so that they may learn from their behavior and grow in self-discipline.

The Board recognizes the need to make its expectations for student behavior while on school property, during remote instruction, or engaged in a school function specific and clear. The rules of conduct listed below are intended to do that and focus on safety and respect for the rights and property of others. Students who will not accept responsibility for their own behavior and who violate these school rules will be required to accept the consequences for their behavior.

Students may be subject to disciplinary action, up to and including suspension from school, when they:

- A. Engage in conduct that is disorderly. Examples of this type of behavior include, but are not limited to:
  - 1. Unsafe behavior, including but not limited to running in the hallways and making unreasonable noise.
  - 2. Possession, sale, distribution, purchase, or use of dangerous/noxious substances,
  - 3. Using language or gestures that are profane, lewd, vulgar or abusive.
  - 4. Recording, photographing, or capturing a teacher's instruction without their direct permission.
  - 5. Obstructing vehicular or pedestrian traffic.
  - 6. Engaging in any willful act which disrupts instruction **or** the normal operation of the school community.
  - 7. Trespassing. Students are not permitted in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building. Students are not permitted to be in any marked unauthorized area of a building that they regularly attend.
  - 8. Computer/electronic communications and cell phone misuse, including, but not limited to, recording, photographing, or capturing of images of any person on school property,



during distance learning, or while using school district transportation, without their express permission.

9. Recording fights and/or violent incidents involving students and any unauthorized use of computers, software, or internet/intranet account; accessing inappropriate websites; or any other violation of the district's acceptable use policy.

- B. Engage in conduct that deliberately goes against what a student has been asked to do or where they are supposed to be at any given time. This behavior is considered insubordinate.

Examples of this type of behavior include, but are not limited to:

1. Failing to comply with the reasonable directions of teachers, school administrators, or other school employees in charge of students or otherwise demonstrating belligerence or disrespect.
2. Lateness for, missing, or leaving school without permission.
3. Cutting/skipping class, detention, or in-school suspension.
4. Giving a malicious or false statement in the course of a student disciplinary hearing, or during the course of an investigation or hearing conducted pursuant to state or federal laws or regulations. (e.g. D.A.S.A., Title VI, Title VII, Title IX, etc.)
5. Engaging in any of the prohibited conduct enumerated herein.

- C. Engage in conduct that prevents others from being able to learn, focus, or be engaged in their work. This behavior is considered disruptive. Examples of this type of behavior include, but are not limited to:

1. Failing to comply with the reasonable directions of teachers, school administrators or other school personnel in charge of students.
2. Inappropriate public sexual contact.
3. Lying to school personnel.
4. The unauthorized display or use of any airborne remote-controlled device over school property during school hours or any school activity, including personal electronic devices, such as, but not limited to, drones cell phones, music or video players, cameras, in a manner that is in violation of district policy.

- D. Engage in conduct that is violent. Examples of this type of behavior include but are not limited to:

1. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon a teacher, administrator, other school employee, another student, or any other person lawfully on school property.

2. Committing, while on school district property, an act of violence (such as hitting, kicking, punching, and scratching) upon another student or any other person lawfully on school property.
3. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on school property or at a school function.
4. Possessing, while on school district property or during remote learning or at school event, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing injury or death.
5. Displaying, while on school district property or during remote learning, or at school event what appears to be a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing death or physical injury.
6. Threatening, while on school district property or during remote learning, to use any instrument that appears capable of causing physical injury or death to use any weapon.
7. Vandalism: Knowingly and intentionally damaging or destroying the personal property of a teacher, administrator, other school district employee, or any person lawfully upon school district property, including graffiti or arson.
8. Vandalism: Knowingly and intentionally damaging or destroying school district property, including graffiti or arson.

E. Engage in any conduct that endangers the safety, physical or mental health or welfare of others or self or intentionally violates the school's health and safety protocols relating to any health and/or safety emergencies. Examples of such conduct include but are not limited to:

1. Forging documents, including but not limited to, the unauthorized signing of a parent/guardian's signature to any school document without the permission of such parent/guardian.
2. Vandalism: Recklessly damaging or destroying the personal property of a teacher, administrator, or other school district employee or any person upon school district property, including graffiti or arson.
3. Vandalism: Recklessly damaging or destroying school district property, including graffiti or arson.
4. Attempting to engage in or perform an act of violence noted in Section D.
5. Subjecting other students, school personnel or any other person lawfully on school property or attending a school function to danger by recklessly engaging in conduct which creates a substantial risk of physical injury.
6. Stealing school district property or attempting to steal the property of other students, school personnel or any other person lawfully on school property or attending a school function.
7. Using school district property without permission or using the property of other students, school personnel or any other person lawfully on school property or attending a school function, without express consent.

8. Throwing objects, including but not limited to food, in the cafeteria or any other areas of the school buildings.
9. Defamation, which includes making false or unprivileged statements or representations about an individual or identifiable group of individuals that harm the reputation of the person or the identifiable group by demeaning them.
10. Discrimination, which includes the use of a person's actual or perceived race, color, weight, creed, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity and expression), or sex as a basis for treating another in a negative manner or to deny rights, equitable treatment or access to facilities available to others.
11. Harassment and Bullying, which includes the creation of a hostile environment by conduct or by threats, intimidation or abuse, including cyberbullying, that (a) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or (b) reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; or (c) reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or (d) occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. Acts of harassment and bullying shall include, but not be limited to, those acts based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. For the purposes of this definition the term "threats, intimidation or abuse" shall include verbal and non-verbal actions.
12. Sexual Harassment, which includes unwelcome verbal or physical sexual advances, sexually explicit statements, discriminatory remarks that are offensive or objectionable to the recipient, requests for sexual favors and other verbal or physical conduct of a sexual nature, which result in more than "petty slights and trivial inconveniences" and create an intimidating, hostile, or offensive learning environment.
13. Cyberbullying, which includes harassment or bullying as defined under "Harassment and Bullying" above, where such harassment or bullying occurs through any form of electronic communication.
14. Harassment (or Bullying), is the creation of a hostile environment by conduct or threats, intimidation or abuse. (See policy 0115, Student Harassment and Bullying Prevention and Intervention for a more complete definition.)
15. Intimidation, which includes engaging in actions or statements that put an individual reasonably in fear of bodily harm.

16. Hazing, which includes any intentional or reckless act directed against another for the purpose of an induction process involving harassment (see policy 0115 for a more complete definition).or initiation into, affiliating with or maintaining or membership in any school-sponsored activity, organization, club or team.
17. Conduct or statements that reasonably cause or would be reasonably expected to cause a student, district employee, or other person lawfully on school district property or during remote learning, to fear for his/her safety.
18. Threatening to commit or attempting to commit an act of violence upon a teacher, administrator, other school employee, a student or any other person on school property or during remote learning.
19. Threatening to commit an act of violence upon the school (terroristic threat), whether the threat be made on school grounds or off school grounds, or by written word, spoken word, or electronic means.
20. Possessing, selling, distributing, exchanging, purchasing, using or being under the influence of tobacco, or what a student believes or represents to be tobacco, while on school property, during remote learning, or at a school-sponsored event or possessing tobacco paraphernalia while on school property, during remote learning, or at a school-sponsored event. Tobacco Definition: Includes but is not limited to any lighted or unlighted cigarette or cigar (including electronic cigarettes or vape devices that carry nicotine), cigar, cigarillo, pipe, clove cigarette, spit tobacco (smokeless, dip, chew and/or snuff), etc. Tobacco Paraphernalia Definition: Includes but is not limited to electronic cigarettes, vape devices, rolling papers, lighters, matches, pipes, etc.
21. Smoking a cigarette, cigar, pipe, electronic cigarette (i.e., vape), or using chewing or smokeless tobacco, or smoking/vaping/ingesting cannabis or concentrated cannabis (includes cannabis products) or smoking cannabinoid hemp (except for lawful medical cannabis use in compliance with state law and regulation), or possession or using products containing Nicotine or synthetic variants.
22. Possessing, consuming, selling, offering, manufacturing, distributing, buying, or exchanging alcoholic beverages or illegal substances, or what the student believes or represents to be alcoholic beverages or illegal substances being under the influence of either or possessing drug paraphernalia, while on school property, during remote learning, or at a school-sponsored event.
  - a. **“Illegal substances”** include, but are not limited to, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, and any **substances** synthetic version thereof, whether specifically illegal or not, commonly referred to as "
  - b. **“Drugs”** – any substance not prescribed by a licensed professional to the student.
  - c. **“Drug paraphernalia”** includes, but is not limited to, electronic cigarettes, vape devices, rolling papers, lighters, matches, pipes, etc.

- d. “**Designer drugs.**” " which are substances designed and synthesized to mimic the intended effects and usages of, which are chemically substantially similar to, illegal drugs, which may or may not be labeled for human consumption.
  - 23. Inappropriately using or sharing prescription and over-the-counter drugs.
  - 24. Unauthorized possession, sale, distribution, exchange, purchase, use or being under the influence of prescription or over-the-counter drugs, or what the student believes or represents to be prescription or over-the-counter drugs.
  - 25. Reckless driving includes, but is not limited to, speeding on campus, failing to obey the school officials’ directives, failing to obey traffic directives, parking in unauthorized areas, etc.
  - 26. Gambling. This may include throwing dice, card playing, or any other form of wagering of any kind including websites and/or applications. May include but not limited to the exchange of money, personal possessions, and/or tokens.
  - 27. Selling, distributing, buying, using or possessing lewd or indecent material.
  - 28. Using vulgar or abusive language, cursing or swearing.
  - 29. Inappropriate displays of affection including, but not limited to, necking, kissing, sexual touching, etc.
  - 30. Indecent exposure, that is, exposure to sight of the private parts of the body
  - 31. Inciting, instigating or encouraging (verbally or by lack of reasonable action to attempt to prevent the misconduct) others to commit any of the acts prohibited by the Code of Conduct.
  - 32. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
  - 33. Engaging in misconduct while on school property or at a school-sponsored event that constitutes a misdemeanor.
  - 34. Engaging in misconduct while on school property or at a school-sponsored event that constitutes a felony.
  - 35. The unauthorized use of any airborne remote-controlled device over school property during school hours or any school activity, including, but not limited to, drones.
- F. Engage in misconduct **or** misbehaviors otherwise prohibited by sections A-E of this section while on a school bus and to remain seated, keep objects and body parts inside the bus, obey the directions from the bus driver or monitor. It is crucial for students to behave appropriately while riding on district buses, to ensure their safety and that of other passengers and to avoid distracting the bus driver. Students are required to conduct themselves on the bus in a manner consistent with established standards for classroom behavior. Excessive noise, pushing, shoving and fighting will not be tolerated.
- G. Engage in any form of academic misconduct. Students who violate this rule will face academic penalties and possible administrative disciplinary action. Examples of academic misconduct include:

1. Cheating involves the TAKING or GIVING of answers on a test, quiz, or homework/class assignment, or using unauthorized notes or materials during a test, quiz, or homework/class assignment. Cheating is strictly forbidden and will not be tolerated.
2. Plagiarism involves the willful copying of previously published material from books, articles, term papers, the Internet, etc., and the presentation of these materials as one's own. This act constitutes fraud and is prohibited.
3. Unauthorized use of an electronic translator in a World Language Class.
4. Copying.
5. Altering records.
6. Sabotaging another student's schoolwork, including but not limited to, removing, damaging, or destroying another student's schoolwork.
7. Assisting another student in any of the above actions.

#### **H. Off-Campus Misconduct:**

A student may be subject to discipline for conduct constituting a crime which is committed off of school premises or at non-school sponsored activities to the extent that the Superintendent of Schools or Board of Education reasonably believes that the continued attendance in school of the student would adversely affect the educational process (e.g., disrupts the operation of the school) or would constitute an endangerment to the health, safety, welfare or morals of the student and/or others in our schools.

A student may be subject to discipline for off-campus misconduct that does not involve criminality that the Superintendent of Schools or Board of Education reasonably believes has a nexus to the educational process (i.e., student-student, student-personnel, interactions that foreseeably would have a detrimental or disruptive effect upon school programs or activities. Such misbehavior includes threatening or harassing students or school personnel through any means off-campus including cyberbullying (for a complete definition of harassment, bullying and cyberbullying refer to policy 0115, Student Harassment and Bullying Prevention and Intervention).

Attempting to engage in any of the prohibited conduct enumerated above will be treated as if the student did engage in the prohibited conduct.

Infractions listed under one category above may also fall under other categories, without the repetition of such infractions in each relevant category.

The Administration reserves the right to implement disciplinary action for incidents not specifically identified above.

Repeat infractions will lead to more severe consequences including, for chronic repeat serious infractions, up to and including permanent suspension.

## **5300.35        REPORTING VIOLATIONS**

Because the district's goal is for making school a community free of violence, intimidation, bullying, harassment, and discrimination, all students are expected to promptly report violations of the code of conduct to a teacher, guidance counselor, the Building Principal, or his or her designee. Any student observing a student possessing a weapon, alcohol, or illegal substance on school property or at a school function shall report this information immediately to a teacher, the Principal, the Principal's designee, or the Superintendent of Schools.

Students are prohibited from knowingly making false statements or knowingly submitting false information to school staff during a disciplinary process.

All district staff who are authorized to impose disciplinary consequences are expected to do so in a prompt, fair, and lawful manner. District staff who are not authorized to impose disciplinary consequences are expected to promptly report violations of the code of conduct to their supervisor, who shall, in turn, impose an appropriate disciplinary consequences if so authorized, or refer the matter to a staff member who is authorized to impose an appropriate consequences

Any weapon, alcohol, or illegal substance found shall be confiscated immediately, if possible, followed by notification to the parent of the student involved and the appropriate disciplinary consequences which may include suspension and referral for prosecution.

The Principal or his/her designee must notify the appropriate local law enforcement agency of those code violations that constitute a crime and substantially affect the order or security of a school as soon as practical, but in no event later than the close of business the day the Principal or his/her designee learns of the violation. The notification may be made by telephone, followed by a letter mailed on the same day as the telephone call is made. The notification must identify the student and explain the conduct that violated the code of conduct and constituted a crime.

## **POLICY 5300.40**

### **DISCIPLINARY PENALTIES, PROCEDURES, AND REFERRALS**

Historically, the discipline of students in schools has focused mainly on handing out punishments based on specific actions. These punishments include reprimands, loss of privileges, office referrals, detentions and suspensions.

However, understanding discipline as a “teachable moment” is fundamental to a positive approach to discipline with the ultimate goal of teaching prosocial behavior. Therefore, the board authorizes restorative justice practices to be employed where appropriate, use conflict resolution, restitution to those harmed, and group, classroom, community and re-entry circles to address misbehaviors with the ultimate goal of teaching prosocial behavior. This approach seeks concurrent accountability and behavioral change.

The main principles of restorative justice are valuing and restoring relationships, repairing the harm done to affected parties, respecting others’ opinions, and reintegrating into the school community.

Under this model, we ask:

- Who has been hurt?
- What are their needs?
- Whose obligations are these?

Essential to the implementation of restorative justice practices is helping students who have engaged in unacceptable behavior to:

- Understand why the behavior is unacceptable and the harm it caused;
- Understand what could have been done differently in the same situation;
- Take responsibility for their actions;
- Make reparations and or restitution to repair the harm done;
- Be given the opportunity to learn prosocial strategies/skills to use in the future; and
- Understand the progression of more increasingly punitive consequences may be imposed if the behavior reoccurs.

While there may be more traditional punishments in conjunction with teaching behavior expectations and treating disciplinary matters as teachable moments, this is a more effective approach than merely reacting to specific events unless student behaviors pose an immediate or ongoing threat to the safety of other students and staff.

The Board directs staff and administration to utilize restorative justice practices where appropriate in addressing student disciplinary issues.

In the application of restorative principles, the process may require the active



participation of students. This may happen at any time during the process, or if a student is unwilling to accept responsibility for their actions and is not demonstrating willingness to make amends.

Consequences, and if needed discipline, are most effective when they deal directly with the problem at the time and place it occurs, and in a way that students view as fair and impartial. School personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' ability to grow in self-discipline.

Consequences and disciplinary action, when necessary, will be firm, fair and consistent so as to be most effective in changing student behavior. In determining the appropriate disciplinary consequence, school personnel authorized to impose disciplinary consequences will consider the following:

1. The student's age.
2. The nature of the offense and the circumstances which led to the offense.
3. The student's prior disciplinary record.
4. The effectiveness of other forms of discipline.
5. Information from parents, teachers, and/or others, as appropriate.
6. Other extenuating circumstances.

As a general rule, discipline will be progressive. This means that a student's first violation will usually merit a lighter consequence than subsequent violations. However, district staff are empowered to utilize the consequence most reasonably calculated to ensure the student learns from their behavior and engages in more pro-social behavior in the future.

If the conduct of a student is related to a disability or suspected disability, the student will be referred to the Committee on Special Education and discipline, if warranted, will be administered consistent with the separate requirements of this code of conduct for disciplining students with a disability or presumed to have a disability. A student identified as having a disability will not be disciplined for behavior related to their disability, unless the discipline is consistent with the student's individualized education plan (IEP).

#### **A. Consequences**

Practices which allow educators to address disciplinary matters as opportunities for learning instead of punishment are expected by the Board rather than a reliance on increasing punitive measures. When choosing interventions and consequences of a student's behavior, teacher, administrators, and staff must balance the district's dual goals of eliminating school disruptions and maximizing student instruction time. Students who are found to have demonstrated inappropriate behavior may be subject to the following interventions and consequences, either alone or in combination. The school personnel identified after each consequence are authorized to assign that consequence, consistent with the student's right to due process.

In conjunction with the list below, administration (with supports from counselors) can

employ conflict resolution meetings, restitution to those harmed, and group, classroom, classroom, community, and/or re-entry circle.

Should a parent or student over the age of 18 opt out of participating in the restorative practices or if restorative practices have not been effective with the student in question, or the infraction warrants a consequence, the list below will be utilized to determine consequences.

1. Oral warning, teacher/student conference, parent contact, in-class time out, brief time out of class, loss of classroom privileges – any member of the district staff
2. Written warning – bus drivers, hall and lunch monitors, coaches, guidance counselors, teachers, Principal, Superintendent (bus drivers, hall and lunch monitors give written warnings to the Assistant Principal or Principal who then contact the student and parent/guardian)
3. Written notification to parent/guardian – bus driver, hall and lunch monitors, coaches, guidance counselors, teachers, Principal, Superintendent (bus driver, hall and lunch monitor notifications are sent out through the office of the Principal/Assistant Principal.
4. Removal from classroom by teacher – teachers, Principal
5. Detention – teachers, Principal, Superintendent
6. In-school suspension – Principal, Superintendent
7. Suspension from transportation – Director of Transportation, Principal, Superintendent
8. Suspension from athletic participation – coaches, Principal, Superintendent
9. Suspension from social or extracurricular activities – activity director, Principal, Superintendent
10. Suspension of other privileges – Principal, Superintendent
11. Short-term (five days or less) suspension from school – Principal, Superintendent, Board
12. Long-term (more than five days) suspension from school – Superintendent, Board
13. Permanent suspension from school – Superintendent, Board.

## **B. Procedures**

The amount of due process a student is entitled to receive before a consequence is imposed depends on the consequence being imposed. In all cases, regardless of the consequence imposed, the school personnel authorized to impose the consequence must inform the student of the alleged inappropriate behavior, and must investigate, to the extent necessary, the facts surrounding the alleged misbehavior. All students will have an opportunity to present their version of the facts to the school personnel imposing the disciplinary consequence in connection with the imposition of the consequence.

Students who are to be given consequences other than an oral warning, written warning or written notification to their parents are entitled to additional rights before the consequence is imposed. These additional rights are explained below.

### **1. Detention**

Teachers, Principals and the Superintendent may use after school detention as a consequence for student misbehavior in situations where removal from the classroom or suspension would be inappropriate. Detention will be imposed as a consequence only when the

student has appropriate transportation home following detention.

## **2. Suspension from transportation**

If students do not conduct themselves properly on a bus, the bus driver is expected to bring such misbehavior to the Director of Transportation and Principal's attention. Students who become a serious disciplinary problem may have their riding privileges suspended by the Director of Transportation, Principal or the Superintendent or their designees.

In such cases, the student's parent/guardian will become responsible for seeing that their child gets to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the district will make appropriate arrangements to provide for the student's education.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214. However, the student and/or the student's parent will be provided with a reasonable opportunity for an informal conference with the district official imposing the suspension to discuss the conduct and the consequence involved prior to the suspension being imposed.

## **3. Suspension from athletic participation, extra-curricular activities and other privileges**

A student subjected to a suspension from athletic participation, extra-curricular activities or other privileges is not entitled to a full hearing pursuant to Education Law §3214.

However, the student and/or the student's parent will be provided with a reasonable opportunity for an informal conference with the district official imposing the suspension to discuss the conduct and the penalty involved, prior to the suspension being imposed.

## **4. Student Alternative Placement**

The Board recognizes the school must balance the need of students to attend school and the need for order in the classroom to establish an environment conducive to learning. As such, the Board authorizes Principals and the Superintendent to place students who would otherwise be suspended from school as the result of a code of conduct violation in "in-school suspension." The in-school suspension teacher will be a certified teacher.

A student subjected to an in-school suspension is not entitled to a full hearing pursuant to Education Law §3214. However, the student and/or the student's parent will be provided with a reasonable opportunity for an informal conference with the district official imposing the in-school suspension to discuss the conduct and the consequence involved, prior to the suspension being imposed.

## **5. Teacher Disciplinary Removal of Disruptive Students**

A student's behavior can affect a teacher's ability to teach and can make it difficult for

other students in the classroom, or those participating virtually, to learn. In most instances, the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include practices that involve the teacher directing a student to briefly leave the classroom to give the student an opportunity to regain his or her composure and self-control in an alternative setting. Such practices may include, but are not limited to: (1) short-term supervised classroom break or in an administrator's office; (2) sending a student into the hallway briefly; (3) sending a student to an Administrator's office for the remainder of the class time only; or (4) sending a student to a guidance counselor or other district staff member for counseling. Time-honored classroom management techniques such as these do not constitute disciplinary removals for purposes of this code.

Teachers will first use interventions aimed at teaching appropriate and responsible behaviors so students can learn and demonstrate safe and respectful academic, social and emotional behavior.

On occasion, a student's behavior may become more disruptive than a teacher can manage. For purposes of this code of conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, whether in person or remotely. A substantial disruption of the educational process or substantial interference with a teacher's authority occurs when a student demonstrates a persistent unwillingness to comply with the teacher's instructions or repeatedly violates the teacher's classroom behavior rules.

A classroom teacher or staff member may remove a disruptive student from class. The removal from class applies to the class of the removing teacher only.

If the disruptive student does not pose a danger or ongoing threat of disruption to the academic process, the teacher must provide the student with an explanation for why he or she is being removed and an opportunity to explain his or her version of the relevant events before the student is removed. Only after the informal discussion may a teacher remove a student from class.

If the student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24-hours of the removal, provided that if such twenty-four hour period does not end on a school day, it shall be extended to the corresponding time on the next school day.

The staff member must complete a district-established disciplinary referral form, contact the parent/guardian, notify the Principal or his or her designee as soon as possible, but no later than the end of the school day of the removal, to explain the circumstances of the removal and to present the referral. If the Principal or designee is not available by the end of the same school day, the teacher must leave the form with the secretary and meet with the Principal or designee prior to the beginning of classes on the next school day.

Within 24 hours after the student's removal, the Principal or another district administrator designated by the Principal must notify the student's parent that the student has been removed from class and why. The notice must also inform the parent that he or she has the right, upon request, to meet informally with the Principal or the Principal's designee to discuss the reasons for the removal.

The Principal may require the teacher who ordered the removal to attend the informal conference.

If at the informal meeting the student denies the charges, the Principal or the Principal's designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. The informal meeting must be held within 48 hours of the student's removal. The timing of the informal meeting may be extended by mutual agreement of the parent and Principal.

The Principal or the Principal's designee may overturn the removal of the student from class if the Principal finds any one of the following:

1. The charges against the student are not supported by substantial evidence.
2. The student's removal is otherwise in violation of the law, including the district's code of conduct.
3. The conduct warrants suspension from school pursuant to Education Law §3214 and a suspension will be imposed.

The Principal or designee may overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the Principal makes a final determination, or the period of removal expires, whichever is less.

Any disruptive student removed from the classroom by the classroom teacher will be offered continued educational programming and activities until they are permitted to return to the classroom.

## **6. Suspension from School**

Suspensions will be limited to students who pose an immediate or ongoing threat to oneself or others or are repeatedly substantially disruptive.

Suspension from school is a severe consequence, which may be imposed only upon students who are insubordinate, disorderly, violent, or disruptive, or whose conduct otherwise endangers the safety, morals, health, or welfare of others.

Suspensions will be used to the minimum degree necessary to promote improved student

behavior and maximize student attendance.

The Board retains its authority to suspend students, but places primary responsibility for the suspension of students with the Superintendent and the Principals.

Any staff member may recommend to the Principal that a student be suspended. All staff members must immediately report and refer a violent student to the Principal for a violation of the code of conduct. All recommendations and referrals will be made in writing unless the conditions underlying the recommendation or referral warrant immediate attention. In such cases a written report is to be prepared as soon as possible by the staff member recommending the suspension. The Principal, upon receiving a recommendation or referral for suspension or when processing a case for suspension, will gather the facts relevant to the matter and record them for subsequent presentation, if necessary. In the event that a Principal or Acting Principal is not available, the Superintendent will assume these responsibilities.

a. Short term (five days or less) Suspension from School

When the Superintendent or Principal (referred to as the "suspending authority") proposes to suspend a student charged with misbehavior for five days or less pursuant to Education Law §3214(3), the suspending authority must immediately notify the student orally. If the student denies the misbehavior the suspending authority must provide an explanation of the basis for the proposed suspension. The suspending authority must also notify the student's parents in writing that the student may be suspended from school. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice within 24 hours of the decision to propose suspension. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting the parents.

The notice shall provide a description of the charges against the student and the incident for which suspension is proposed and shall inform the parents of their right to request an informal conference with the Principal. Both the notice and informal conference shall be in the dominant language or mode of communication used by the parents. At the conference, the parents shall be permitted to ask questions under such procedures as the Principal may establish.

The notice and opportunity for an informal conference shall take place before the student is suspended unless the student's presence in school poses a continuing danger to persons or property or poses an ongoing threat of disruption to the academic process. If the student's presence does pose such a danger or threat of disruption, the notice and opportunity for an informal conference shall take place as soon after the suspension as is reasonably practicable.

After the conference, the Principal will promptly advise the parents in writing of the decision. The Principal will advise the parents that if they are not satisfied with the decision and wish to pursue the matter, they must file a written appeal to the Superintendent within ten (10) business days, unless they can show extraordinary circumstances precluding them from doing so. The Superintendent shall issue a written decision regarding the appeal within 10 business days of receiving the appeal. If the parents are not satisfied with the Superintendent's decision, they

must file a written appeal to the Board of education with the District Clerk within 10 business days of the date of the Superintendent's decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board may be appealed to the Commissioner of Education within 30 calendar days of the Board's decision.

b. Long term (more than five days) Suspension from School

When the Superintendent determines that a suspension for more than five days may be warranted, he or she shall give reasonable notice to the student and the student's parents of their right to a fair hearing. At the hearing, the student shall have the right to be represented by counsel, the right to question witnesses against the student, and the right to present witnesses and other evidence on their behalf.

The Superintendent will decide whether to personally hear and determine the proceeding or designate a hearing officer to conduct the hearing. The hearing officer will be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before them. A record of the hearing will be maintained, but no stenographic transcript will be required. A tape recording will be deemed a satisfactory record. The hearing officer will make findings of fact and recommendations as to the appropriate measure of discipline to the Superintendent. The report of the hearing officer will be advisory only, and the Superintendent may accept all or any part thereof.

An appeal of the decision of the Superintendent may be made to the Board, which will make its decision based solely upon the record before it. All appeals to the Board must be in writing and submitted to the district clerk within thirty (10) days of the date of the Superintendent's decision, unless the parents can show that extraordinary circumstances preclude them from doing so. The Board may adopt in whole or in part the decision of the Superintendent. Final decisions of the Board may be appealed to the Commissioner of Education within 30 days of the decision.

c. Permanent suspension

Permanent suspension is reserved for extraordinary circumstances such as where a student's conduct poses a life-threatening danger to the safety and well-being of other students, school personnel or any other person lawfully on school property or attending a school function.

d. Procedure After Suspension

The Superintendent of Schools may condition a student's early return from a suspension on the student's voluntary participation in counseling or specialized classes, such as anger management or dispute resolution. The Board retains discretion in offering this opportunity. If and when the student and/or parent/guardian agrees to this option, the terms and conditions will be specified in writing. However, if the student violates the agreed-upon terms and conditions within a certain time period, the unserved portion of the suspension may be re-imposed.

### **C. Minimum Periods of Suspension**

#### **1. Students who bring or possess certain weapons on school property**

Any student found guilty of bringing a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death onto school property will be subject to suspension from school for at least one calendar year. Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The Superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the consequence, the Superintendent may consider the following:

- a. The student's age.
- b. The student's grade in school.
- c. The student's prior disciplinary record.
- d. The Superintendent's belief that other forms of discipline may be more effective.
- e. Input from parents, teachers and/or others.
- f. Other extenuating circumstances.

A student with a disability may be suspended in accordance with the requirements of state and federal law.

#### **2. Students who commit violent acts other than bringing or possessing certain weapons on school property**

Any student, other than a student with a disability in certain circumstances, who is found to have committed a violent act, other than bringing a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death onto school property, shall be subject to suspension from school for at least one day. If the proposed consequence is the minimum one-day suspension, the student and the student's parent/guardian will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed consequence exceeds the minimum one-day suspension, the student and the student's parent will also be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing or bringing a weapon on school property.

#### **3. Students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom**

Any student, other than a student with a disability in certain circumstances, who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom will be suspended from school for at least one day. For purposes of this code of conduct, "repeatedly is substantially disruptive" means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law § 3214 (3-a) and this code on four or more occasions during a semester, or three



or more occasions during a trimester. If the proposed consequence is the minimum one-day suspension, the student and the student's parent will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed consequence exceeds five-day suspension, the student and the student's parent will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parent will also be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent has the authority to modify the minimum one-day suspension on a case-by-case basis. In deciding whether to modify the consequence, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing or bringing a weapon on school property.

#### **D. Referrals**

##### **1. Counseling**

The clinical staff members shall handle referrals of students to counseling.

##### **2. PINS Petitions**

The district may file a PINS (person in need of supervision) petition in Family Court on any student under the age of 18 who demonstrates that he or she requires supervision and treatment by:

- a. Being habitually truant and not attending school as required by part one of Article 65 of the Education Law.
- b. Engaging in an ongoing or continual course of conduct that makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.
- c. Knowingly and unlawfully possessing marijuana in violation of Penal Law §221.05. A single violation of § 221.05 will be a sufficient basis for filing a PINS petition.
- d. Engaging in prostitution in violation 230.00 (engaging or agreeing or offering to engage in sexual conduct with another person in return for a fee); or
- e. Appearing to be a sexually exploited child under Social Services Law §447-a(1)(a), (c), or (d), but the student must consent to filing the PINS petition.

For items 'a' and 'b' above, when filing the petition, the district must describe the diversion efforts it has undertaken or services provided to the student, and the grounds for concluding the allegations cannot be resolved without the petition.

##### **3. Juvenile Delinquents and Juvenile Offenders**

For students found to have brought either a weapon (defined in 18 USC §930(g)(2) or firearm (defined in 18 USC §921), the Superintendent is required to make the following referrals:

- a. To the County Attorney for a juvenile delinquency proceeding before the Family Court:
  - All students under the age of 16 who are found to have brought a weapon to school, except students aged 14 or 15 who qualify for juvenile offender status under the Criminal Procedure Law 1.20(42).
  - Students aged 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status under Criminal Procedure Law §1.20(42) who has been found to have brought a weapon to school, to the appropriate law enforcement authorities.

As a reminder, a dangerous weapon under 18 USC §930(g)(2) is: any weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except for a pocket knife with a blade less than 2½ inches long. A firearm under 18 USC §921 is: any weapon which will, or is designed to, or may readily be converted to expel a projectile by an explosive; or the frame or receiver of such weapon, or any firearm muffler or silencer; or any destructive device (e.g., bomb, grenade, rocket missile, mine, etc.); however this does not include antique firearms (e.g., those from 1898 or prior, or certain replicas).

Ref: Education Law §3214

8 NYCRR §100.2(l)

*Matter of O'Conner v. Bd. of Ed.*, 65 Misc. 2d 40, 43 (due process)

*Appeal of Reeves*, Dec. No. 13,857 (1998) (involuntary transfer)

*Appeal of Alexander*, 36 EDR 160 (1996) (counseling)

*Matter of Troy R.*, 29 EDR 424 (1990) (automatic penalties)

*Appeal of Ward*, 27 EDR 217 (1988) (indefinite suspension)

*Appeal of Wood*, 27 EDR 92 (1987) (suspension beyond school year)

*Matter of Clark*, 21 EDR 542 (1982) (extracurricular activities)

*Matter of Caskey*, 21 EDR 138 (1981) (reduction in grade)

*Matter of MacWhinnie*, 20 EDR 145 (1980) (reduction in grade)

*Matter of Labriola*, 20 EDR 74 (1980) (excessive penalty)

*Matter of Roach*, 19 EDR 377 (1980) (transportation; contingent suspensions)

*Matter of Caulfield*, 18 EDR 574 (1979) (suspension from classes)

*Matter of Wright*, 18 EDR 432 (1978) (formal due process)

*Matter of Macheski*, 13 EDR 112 (1973) (suspension by a principal)

*Matter of DeVore*, 11 EDR 296 (1972) (insufficient basis for discipline)

*Matter of Port*, 9 EDR 107 (1970) (informal due process)

#### **5300.45          ALTERNATIVE INSTRUCTION**

When a student of any age is removed from class by a teacher or a student of compulsory attendance age is suspended from school pursuant to Education Law §3214, the district will take immediate steps to provide alternative means of instruction for the student during such removal or suspension from school.

The Board of Education expects students, administrators, teachers and parents to make every effort to maintain student academic progress in the event of removal or suspension, and support student re-entry to the classroom at the conclusion of the disciplinary action.

## **5300.50 DISCIPLINE OF STUDENTS WITH DISABILITIES**

The Board of Education recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities who violate the district's student code of conduct, and/or to temporarily remove a student with disabilities from his or her current placement because maintaining the student in that placement is substantially likely to result in injury to the student or to others.

The Board also recognizes that students with disabilities deemed eligible for special education services under the IDEA and Article 89 of New York's Education Law enjoy certain procedural protections that school authorities must observe when they decide to suspend or remove them. Under certain conditions those protections extend, as well, to students not currently deemed to be a student with a disability but determined to be a student presumed to have a disability for discipline purposes.

Therefore, the Board is committed to ensuring that the district follows suspension and removal procedures that are consistent with those protections. The code of conduct for students is intended to afford students with disabilities and students presumed to have a disability for discipline purposes the express rights they enjoy under applicable law and regulations.

### **Definitions**

For purposes of this portion of the code of conduct, and consistent with applicable law and regulations, the following definitions will apply:

1. *Behavioral intervention plan* (BIP) means a plan that is based on the results of a functional behavioral assessment and that, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior.
2. *Controlled substance* means a drug or other substance abuse identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC § 812(c)).
3. *Disciplinary change in placement* means a suspension or removal from a student's current educational placement that is either:
  - a. For more than 10 consecutive school days; or
  - b. For a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of such additional factors as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another.
4. *Illegal drug* means a controlled substance, but does not include a controlled substance legally possessed or used under the supervision of a licensed health-care professional, or

a substance that is otherwise legally possessed or used under the authority of the Controlled Substances Act or under any other provision of federal law.

5. *Interim alternative educational setting* (IAES) means a temporary educational placement, other than the student's current placement at the time the behavior precipitating the IAES placement occurred. An IAES must allow a student to continue to receive educational services that enable the student to continue to participate in the general curriculum and progress toward meeting the goals set out in the student's individualized education program; as well as to receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.
6. *Manifestation review* means a review of the relationship between the student's disability and the behavior subject to disciplinary action required when the disciplinary action results in a disciplinary change of placement and conducted in accordance with requirements set forth later in this policy.
7. *Manifestation team* means a district representative knowledgeable about the student and the interpretation of information about child behavior, the parent, and relevant members of the committee on special education as determined by the parent and the district.
8. *Removal* means a removal of a student with a disability for disciplinary reasons from his or her current educational placement, other than a suspension; and a change in the placement of a student with a disability to an IAES.
9. *School day* means any day, including a partial day, that students are in attendance at school for instructional purposes.
10. *Serious bodily injury* means bodily injury which involves a substantial risk of death, extreme physical pain, protracted obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.
11. *Student presumed to have a disability for discipline purposes* means a student who, under the conditions set forth later in this policy, the district is deemed to have had knowledge was a student with a disability before the behavior that precipitated the disciplinary action.
12. *Suspension* means a suspension pursuant to §3214 of New York's Education Law.
13. *Weapon* means the same as the term "dangerous weapon" under 18 USC §930(g)(2) which includes a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except a pocket knife with a blade of less than two and one-half inches in length.

### **Authority of School Personnel to Suspend or Remove Students with Disabilities**

The Board, District Superintendent, Superintendent of Schools, or a Building Principal with authority to suspend students under the Education Law may order the placement of a student with a disability into an IAES, another setting or suspension for a period not to exceed five consecutive school days.

The Superintendent may, directly or upon the recommendation of a designated hearing officer, order the placement of a student with a disability into an IAES, another setting, or suspension for a period not to exceed ten consecutive school days inclusive of any period in which the student has been suspended or removed for the same behavior pursuant to the above

paragraph, if the Superintendent determines that the student's behavior warrants the suspension. The Superintendent also may order additional suspensions of not more than ten consecutive school days in the same school year for separate incidents of misbehavior, as long as the suspensions do not constitute a disciplinary change of placement.

The Superintendent may order the placement of a student with a disability into an IAES, another setting or suspension for a period in excess of ten consecutive school days if the manifestation team determines that the student's behavior was not a manifestation of the student's disability. In such an instance, the Superintendent may discipline the student in the same manner and for the same duration as a non-disabled student.

Furthermore, the Superintendent may, directly or upon the recommendation of a designated hearing officer, order the placement of a student with a disability to an IAES to be determined by the committee on special education for a period of up to 45 additional school days if the student either:

1. Carries or possesses a weapon to or at school, on school premises or to a school function, or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function under the district's jurisdiction, or
3. Has inflicted serious bodily injury upon another person while at school, on school premises or at a school function under the district's jurisdiction.

The Superintendent may order the placement of a student with a disability to an IAES under such circumstances, whether or not the student's behavior is a manifestation of the student's disability. However, the committee on special education will determine the IAES.

### **Procedures for the Suspension or Removal of Students with Disabilities by School Personnel**

1. In cases involving the suspension or removal of a student with a disability for a period of five consecutive school days or less, the student's parents or persons in parental relation to the student will be notified of the suspension and given an opportunity for an informal conference in accordance with the same procedures that apply to such short-term suspensions of non-disabled students.
2. The suspension of students with disabilities for a period in excess of five school days will be subject to the same due process procedures applicable to non-disabled students, except that the student disciplinary hearing conducted by the Superintendent or a designated hearing officer shall be bifurcated into a guilt phase and a penalty phase. Upon a finding of guilt, the Superintendent or the designated hearing officer will await notification of the determination by the manifestation team as to whether the student's behavior was a manifestation of his or her disability. The penalty phase of the hearing may proceed after

receipt of that notification. If the manifestation team determined that the behavior was not a manifestation of the student's disability, the student may be disciplined in the same manner as a non-disabled student, except that he or she will continue to receive services as set forth below. However, if the behavior was deemed a manifestation of the student's disability, the hearing will be dismissed, unless the behavior involved concerned weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury, in which case the student may still be suspended and placed in an IAES for up to 45 additional school days.

### **Limitation on Authority of School Personnel to Suspend or Remove Students with Disabilities**

The imposition of a suspension or removal by authorized school personnel may not result in a disciplinary change of placement of a student with a disability that is based on a pattern of suspensions or removals as set forth above in the *Definitions* section of this policy, unless:

1. The manifestation team determines that the student's behavior was not a manifestation of the student's disability, or
2. The student is removed to an IAES for behavior involving weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury as set forth above.

School personnel will consider any unique circumstances on a case-by-case basis when determining whether a disciplinary change in placement is appropriate for a student with a disability who violates the district's code of conduct.

In addition, school personnel may not suspend or remove a student with a disability in excess of the amount of time that a non-disabled student would be suspended for the same behavior.

### **Parental Notification of a Disciplinary Change of Placement**

The district will provide the parents of a student with a disability notice of any decision to make a removal that constitutes a disciplinary change of placement because of a violation of the student code of conduct. Such notice will be accompanied by a copy of the procedural safeguards notice.

### **Authority of an Impartial Hearing Officer to Remove a Student with a Disability**

An impartial hearing officer may order the placement of a student with a disability to an IAES for up to 45 school days at a time if he or she determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others. This authority applies whether or not the student's behavior is a manifestation of the student's disability.

## **Manifestation Review**

A review of the relationship between a student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the student's disability will be made by the manifestation team immediately, if possible, but in no case later than 10 school days after a decision is made by:

1. The Superintendent to change the placement of a student to an IAES;
2. An impartial hearing officer to place a student in an IAES; or
3. The Board, the Superintendent, or Building Principal to impose a suspension that constitutes a disciplinary change in placement.

The manifestation team must determine that the student's conduct was a manifestation of the student's disability if it concludes that the conduct in question was either:

1. Caused by or had a direct or substantial relationship to the student's disability, or
2. The direct result of the district's failure to implement the student's individualized education program.

The manifestation team must base its determination on a review of all relevant information in the student's file including the student's individualized education program, any teacher observations, evaluations, and any relevant information provided by the parents.

If the manifestation team determines that the student's conduct is a manifestation of the student's disability, the district will:

1. Have the committee on special education conduct a functional behavioral assessment of the student and implement a behavioral intervention plan, unless the district had already done so prior to the behavior that resulted in the disciplinary change of placement that occurred. However, if the student already has a behavioral intervention plan, the CSE will review the plan and its implementation, and modify it as necessary to address the behavior.
2. Return the student to the placement from which he or she was removed, unless the change in placement was to an IAES for conduct involving weapons, illegal drugs or controlled substances or the infliction of serious bodily injury, or the parents, the district and the CSE agree to a change in placement as part of the modification of behavioral intervention plan.

If the manifestation team determines that the conduct in question was the direct result of the district's failure to implement the student's individualized education program, the district will take immediate steps to remedy those deficiencies.



If the manifestation team determines that the student's conduct is not a manifestation of the student's disability, the district will:

If deemed necessary, have the committee on special education conduct a functional behavioral assessment of the student and implement a behavioral intervention plan, unless the district had already done so prior to the behavior that resulted in the disciplinary change of placement that occurred. However, if the student already has a behavioral intervention plan, the CSE will review the plan and its implementation, and modify it as necessary to address the behavior.

Return to the subject of disciplining the student, to determine whether the student will be further suspended. Since there is a negative manifestation finding, the student may be suspended in the same manner as his/her non-disabled peers.

### **Services for Students with Disabilities during Periods of Suspension or Removal**

Students with disabilities who are suspended or removed from their current educational setting in accordance with the provisions of this policy and applicable law and regulation will continue to receive services as follows:

1. During suspensions or removals of up to 10 school days in a school year that do not constitute a disciplinary change in placement, the district will provide alternative instruction to students with disabilities of compulsory attendance age on the same basis as non-disabled students. Students with disabilities who are not of compulsory attendance age will receive services during such periods of suspension or removal only to the same extent as non-disabled students of the same age would if similarly suspended.
2. During subsequent suspensions or removals of up to 10 school days that in the aggregate total more than 10 school days in a school year but do not constitute a disciplinary change in placement, the district will provide students with disabilities services necessary to enable them to continue to participate in the general education curriculum and to progress toward meeting the goals set out in their respective individualized education program. School personnel, in consultation with at least one of the student's teachers, will determine the extent to which services are needed to comply with this requirement.

In addition, during such periods of suspension or removal the district will also provide students with disabilities services necessary for them to receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so that it does not recur.

3. During suspensions or removals in excess of 10 school days in a school year that constitute a disciplinary change in placement, including placement in an IAES for behavior involving weapons, illegal drugs or controlled substances, or the infliction of serious bodily injury, the district will provide students with disabilities services necessary to enable them to continue to participate in the general curriculum, to progress toward meeting the goals set out in their respective individualized education program, and to

receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications designed to address the behavior violation so it does not recur.

In such an instance, the committee on special education will determine the Interim Alternative Education Setting and the appropriate services to be provided.

### **Students Presumed to Have a Disability for Discipline Purposes**

The parent of a student who is facing disciplinary action but who was not identified as a student with a disability at the time of misconduct has the right to invoke any of the protections set forth in this policy in accordance with applicable law and regulations, if the district is deemed to have had knowledge that the student was a student with a disability before the behavior precipitating disciplinary action occurred and the student is, therefore, a student presumed to have a disability for discipline purposes.

If it is claimed that the district had such knowledge, it will be the responsibility of the Superintendent, Building Principal, or other authorized school official imposing the suspension or removal in question for determining whether the student is a student presumed to have a disability for discipline purposes. The district will be deemed to have had such knowledge if:

1. The student's parents expressed concern in writing to supervisory or administrative personnel, or to a teacher of the student that the student is in need of special education. Such expression may be oral if the parent does not know how to write or has a disability that prevents a written statement; or
2. The student's parent has requested an evaluation of the student; or
3. A teacher of the student or other school personnel has expressed specific concerns about a pattern of behavior demonstrated by the student, directly to the district's director of special education or other supervisory personnel.

Nonetheless, a student will not be considered a student presumed to have a disability for discipline purposes if notwithstanding the district's receipt of information supporting a claim that it had knowledge the student has a disability,

1. The student's parent has not allowed an evaluation of the student; or
2. The student's parent has refused services; or
3. The District conducted an evaluation of the student and determined that the student is not a student with a disability.

If there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other non-disabled student who engaged in comparable behaviors. However, if the district receives a request for an individual evaluation while the student is subjected to a disciplinary removal, the district will conduct an expedited evaluation of the student in accordance with applicable law and regulations. Until the expedited evaluation is

completed, the student shall remain in the educational placement determined by the district which can include suspension.

### **Expedited Due Process Hearings**

The district will arrange for an expedited due process hearing upon receipt of or filing of a due process complaint notice for such a hearing by:

1. The district to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his or her current educational placement;
2. The district during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings;
3. The student's parent regarding a determination that the student's behavior was not a manifestation of the student's disability; or
4. The student's parent relating to any decision regarding placement, including but not limited to any decision to place the student in an IAES.

The district will arrange for, and an impartial hearing officer will conduct, an expedited due process hearing in accordance with the procedures established in Commissioner's regulations. Those procedures include but are not limited to convening a resolution meeting, and initiating and completing the hearing within the timelines specified in those regulations.

When an expedited due process hearing has been requested because of a disciplinary change in placement, a manifestation determination, or because the district believes that maintaining the student in the current placement is likely to result in injury to the student or others, the student will remain in the IAES pending the decision of the impartial hearing officer or until the expiration of the period of removal, whichever occurs first unless the student's parent and the district agree otherwise.

### **Section 504/Title II ADA Disability**

Before discipline may be meted out for a student with a disability or suspected disability founded solely under §504 of the Rehabilitation Act of 1973 (hereinafter "§504") or Title II of the Americans with Disabilities Act (hereinafter the "ADA"), the §504 multi-disciplinary committee (hereinafter the "§504 committee") must make a determination of whether the conduct underlying the charge(s) was a manifestation of the disability, if the discipline will constitute a disciplinary change in placement (a suspension or removal from a student's current educational placement that is either (a) for more than 10 consecutive school days or (2) for a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year, because the student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals, and because of such additional factors

as the length of each suspension or removal, the total amount of time the student has been removed and the proximity of the suspensions or removals to one another).

1. If a nexus is found between the disability and the conduct underlying the charges, the §3214 proceeding and/or the suspension must be discontinued and the matter placed under the jurisdiction of the §504 Committee for any further consideration. The §504 Committee must register a referral and bring about an evaluation of a student with a suspected disability or, if the student is already eligible under §504, it must consider possible program modification and disposition on a non-disciplinary basis.
2. Students with a recognized 504/ADA disability who are currently illegally using drugs or using alcohol may be disciplined regardless of their disability status and the nexus finding in the same manner and to the same extent as their non-disabled peers, provided that the students are currently engaged in the illegal use of drugs or alcohol.
3. If no nexus is found, yet a disability is indicated or has been identified, discipline may be imposed and may be imposed upon remand to the §3214 Hearing Officer. Students whose sole disabilities are found under §504 and for whom no nexus is found shall be disciplined in the same manner as their non-disabled peers.

Any penalty imposed may not be based on past behavior for which a nexus determination was not made or had been made but in the affirmative.

#### **Reporting Crimes Committed by Students with Disabilities to Appropriate Law Enforcement/Judicial Authorities**

Consistent with its authority under applicable law and regulations, the district will report a crime committed by a student with a disability to appropriate law enforcement and judicial authorities. In such an instance, The Superintendent will ensure that copies of the special education and disciplinary records of the student are transmitted for consideration to the appropriate authorities to whom the crime is reported, to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

**Policy 5300.55            CORPORAL PUNISHMENT**

Corporal punishment is any act of physical force upon a student for the purpose of punishing that student. Corporal punishment of any student by any district employee is strictly forbidden.

Corporal punishment does not mean the use of physical restraint to protect the oneself, the student, another student, teacher or any other person from physical injury, when alternative procedures and methods not involving the use of physical restraint cannot reasonably be employed.

Physical restraint will not be used to prevent property damage, except in situations where there is imminent danger of serious physical harm to the student or others, and the student has not responded to positive, proactive intervention strategies.

The authorized use of timeout and physical restraint is addressed in policy 4321.12 and regulation 4321.12-R.

The district will file all complaints about the use of corporal punishment with the Commissioner of Education in accordance with Commissioner's regulations.

Cross-ref:     4321.12, Timeout and Physical Restraint (All Students)

Ref:     8 NYCRR §100.2(l)(3)  
     Rules of the Board of Regents §19.5

**Policy 5300.60****STUDENT SEARCHES AND INTERROGATIONS**

The Board of Education is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary consequence on a student may question a student about an alleged violation of law or the district code of conduct. Students are not entitled to any sort of “Miranda”-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, school officials will tell all students why they are being questioned.

The Board authorizes the Superintendent of Schools, Building Principals, the school nurse and district security and other officials to conduct searches of students and their belongings, in most instances, with exceptions set forth below in A. and B., if the authorized school official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the district code of conduct.

An authorized school official may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the school official has a legitimate reason for the very limited search.

An authorized school official may search a student or the student's belongings based upon information received from a reliable source. Individuals, other than the district employees, will be considered reliable informants if they have previously supplied information that was accurate and verified, or they make an admission against their own interest, or they provide the same information that is received independently from other sources, or they appear to be credible and the information they are communicating relates to an immediate threat to safety. District employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.

Before searching a student or the student's belongings, the authorized school official should attempt to get the student to admit that they possess physical evidence that they violated the law or the district code, or get the student to voluntarily consent to the search. Searches will be limited to the extent necessary to locate the evidence sought.

Whenever practicable, searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched.

**A. Student Lockers, Desks, and other School Storage Places**

The rules in this code of conduct regarding searches of students and their belongings do not apply to student lockers, desks, and other school storage places or to school-owned electronic devices. Students have no reasonable expectation of privacy with respect to these places or devices and school officials retain complete control over them. This means that student lockers, desks, and other school storage places or school-owned electronic devices may be

subject to search at any time by school officials, without prior notice to students and without their consent. However, student's belongings stored in lockers, desks, and other school storage places cannot be searched without satisfying the reasonable suspicion standard outlined above.

## **B. Strip searches**

A strip search is a search that requires a student to remove any or all of their clothing, other than an outer coat or jacket. If an authorized school official believes it is necessary to conduct a strip search of a student, the school official may do so only if the search is authorized in advance by the Superintendent or the school attorney. The only exception to this rule requiring advanced authorization is when the school official believes there is an emergency situation that could threaten the safety of the student or others.

Strip searches may only be conducted by an authorized school official of the same sex as the student being searched and in the presence of another district professional employee who is also of the same sex as the student.

In every case, the school official conducting a strip search must have probable cause – not simply *reasonable cause* – to believe the student is concealing evidence of a violation of law or the district code. In addition, before conducting a strip search, the school official must consider the nature of the alleged violation, the student's age, the student's record, the quality of the knowledge that led to the reasonable suspicion and the need for such a search.

School officials will attempt to notify the student's parent/guardian by telephone before conducting a strip search, or in writing after the fact if the parent could not be reached by telephone.

## **C. Treatment of Cell Phones**

Teachers and administrators are authorized to confiscate student cell phones that are being used in violation of the code of conduct and/or policy 5695, Student Use of Electronic Devices. Teachers and administrators are permitted to look at the screen of the cell phone and can request the student's cooperation to search the cell phone further. Without a student's permission, teachers and administrators should not undertake a more extensive search until conferring with the Superintendent or school attorney for guidance.

## **D. Documentation of Searches**

An authorized school official conducting a search shall be responsible for promptly recording the following information about each search:

- Name, age, and grade of student searched.
- Reasons for the search.
- Name of any informant(s).
- Purpose of search (that is, what item(s) were being sought).
- Type and scope of search.
- Person conducting search and his or her title and position.

- Witnesses if any to the search.
- Time and location of search.
- Results of search (that is, what items(s) were found).
- Disposition of items found.
- Time, manner, and results of parental notification.

The Principal or the Principal's designee shall be responsible for the custody, control, and disposition of any illegal or dangerous item taken from a student. The Principal or his or her designee shall clearly label each item taken from the student and retain control of the item(s), until the item is turned over to the police. The Principal or his or her designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

#### **D. Police Involvement in Searches and Interrogations of Students**

District officials are committed to cooperating with police officials and other law enforcement authorities to maintain a safe school environment. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work. Police officials may enter school property or a school function to question or search a student or to conduct a formal investigation involving students only if they have:

1. A search or an arrest warrant; or
2. Probable cause to believe a crime has been committed on school property or at a school function.

Before police officials are permitted to question or search any student, the Principal or his or her designee shall first try to notify the student's parent/guardian to give the parent/guardian the opportunity to be present during the police questioning or search. If the student's parent/guardian cannot be contacted prior to the police questioning or search, the questioning or search shall not be conducted, unless the student is 16 years of age or older. The Principal or designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school. This means:

1. They must be informed of their legal rights.
2. They may remain silent if they so desire.
3. They may request the presence of an attorney.

Cross-ref: 5695, Students and Personal Electronic Devices

Ref: *Safford Unified School District #1 et al. v. Redding*, 129 S. Ct. 2633 (2009)  
*Vassallo v. Lando*, 591 F.Supp.2d 172 (E.D.N.Y. (2008)  
*Phaneuf v. Fraikin* 448 F.3<sup>rd</sup> 591 (2006)



*New Jersey v. TLO*, 469 U.S. 325 (1985)  
*In re Gregory*, 82 N.Y.2d 588 (1993)  
*People v. Scott D.*, 34 N.Y.2d 483 (1974)  
*People v. Singletary*, 37 N.Y.2d 310 (1975))  
*People v. Overton*, 20 N.Y.2d 360 (1969)  
*M.M. v. Anker*, 607 F.2d 588 (2d Cir. 1979)  
*Opinion of Counsel*, 1 EDR 800 (1959)

## **5300.65 VISITORS TO THE SCHOOLS**

The Board encourages parents and other district citizens to visit the district's schools and classrooms to observe the work of students, teachers and other staff. Since schools are a place of work and learning, however, certain limits must be set for such visits. All visitations, outside of a building's main office shall be scheduled and available by invitation only. The Principal or his or her designee is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the schools:

Anyone who is not a regular staff member or student of the school will be considered a visitor.

All visitors to the school must report to the office of the Principal or the reception area upon arrival at the school. There they will be required to provide proper identification, state the purpose of their visit, sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in the school or on school grounds. The visitor must sign out and return the identification badge to the Principal's office or designated area before leaving the building.

Visitors attending school functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.

Parents or citizens who wish to visit a classroom while school is in session are required to arrange such visits in advance with the principal and classroom teacher(s), so that class disruption is kept to a minimum.

Teachers are expected not to take class time to discuss individual matters with visitors.

Any unauthorized person on school property will be reported to the Principal or his or her designee. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.

All visitors are expected to abide by the rules for public conduct on school property contained in this code of conduct.

Ref: Education Law §§1708; 2801

## **5300.70 PUBLIC CONDUCT ON SCHOOL PROPERTY**

The district is committed to providing an orderly, safe, welcoming, engaging, respectful, environment that is conducive to learning. The district invites the members of the public to join them in the educational process, competitive and artistic events, and other school functions. In order to foster this kind of an environment, it is necessary to regulate public conduct on school property and at school functions (whether in-person or virtual.) For purposes of this section of the code, “public” shall mean all persons when on school property or attending a school function (whether in-person or virtual), including students, teachers and district personnel.

The expectations for the public’s conduct on school property and at school functions contained in this code are not intended to limit freedom of speech or peaceful assembly. The district recognizes that free inquiry and free expression are indispensable to the objectives of the district. The purpose of this code is to support the conducive learning environment, maintain order, and prevent infringement on the rights of others.

All persons on school property or attending a school function (whether in-person or virtual) shall conduct themselves in a safe, respectful, and orderly manner. In addition, all persons on school property or attending a school function (whether in-person or virtual) are expected to be properly attired for the purpose they are on school property and follow the school’s health and safety protocols relating to any health and/or safety emergencies.

### **A. Prohibited Conduct**

No person, either alone or with others, may:

1. Intentionally injure any person or threaten to do so, or endanger the safety of themselves or others.
2. Intentionally damage or destroy school district property or the personal property of a teacher, administrator, other district employee or any person lawfully on school property, including graffiti or arson.
3. Disrupt the orderly conduct of classes, school programs or other school activities.
4. Distribute or wear materials on school grounds or at school functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the school program.
5. Intimidate, harass or discriminate against any person on the basis of actual or perceived race, creed, color, weight, national origin, ethnic group, religion, religious practices, age, disability, sex, sexual orientation, or gender (including gender identity and expression).
6. Enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed.
7. Obstruct the free movement of any person in any place to which this code applies.
8. Violate the traffic laws, parking regulations or other restrictions on vehicles.
9. Possess, consume, sell, offer, manufacture, distribute, buy or exchange alcoholic beverages, controlled or illegal substances or any synthetic versions (whether or not

- specifically illegal or labeled for human consumption), or be under the influence of either on school property or at a school function.
10. Possess or use weapons in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by the school district.
  11. Loiter on or about school property.
  12. Gamble on school property or at school functions.
  13. Refuse to comply with any reasonable order of identifiable school district officials performing their duties.
  14. Willfully incite others to commit any of the acts prohibited by this code.
  15. Violate any federal or state statute, local ordinance or Board policy while on school property or while at a school function.
  16. Smoke a cigarette, cigar, pipe, electronic cigarette (i.e., vape), or use chewing or smokeless tobacco, or smoke/vape/ingest cannabis or concentrated cannabis (includes cannabis products) or smoking cannabinoid hemp (except for lawful medical cannabis use in compliance with state law and regulation).

## **B. Consequences**

1. Persons who violate this code shall be subject to the following:
2. Visitors. Their authorization, if any, to remain on school grounds or at the school function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to ejection.
3. Students. They shall be subject to disciplinary action as the facts may warrant, in accordance with the due process requirements.
4. Tenured faculty members. They shall be subject to disciplinary action as the facts may warrant in accordance with Education Law § 3020-a or any other legal rights that they may have.
5. Staff members in the classified service of the civil service entitled to the protection of Civil Service Law § 75. They shall be subject to immediate ejection and to disciplinary action as the facts may warrant in accordance with Civil Service Law § 75 or any other legal rights that they may have.
6. Staff members other than those described in subdivisions 4 and 5. They shall be subject to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

## **C. Enforcement**

The Principal or his/her designee shall be responsible for enforcing the conduct required by this code.

When the Principal or his or her designee sees an individual engaged in actions that do not support a community that values and practices equality, appreciation of individual differences, collaboration to achieving the goal of making school a community free of violence intimidation, bullying, harassment, and discrimination, misconduct or otherwise not allowed

behaviors, which in his or her judgment does not pose any immediate threat of injury to persons or property, the Principal or designee shall tell the individual that the behavior is not allowed and attempt to persuade the individual to stop. The Principal or designee shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the undesired behaviors, or if the person's conduct poses an immediate threat of injury to persons or property, the Principal or designee shall have the individual removed immediately from school property or the school function. If necessary, local law enforcement authorities will be contacted to assist in removing the person.

The district shall initiate disciplinary action against any student or staff member, as appropriate, with the Consequences” section above. In addition, the district reserves its right to pursue a civil or criminal legal action against any person violating the code.

## **Policy 5300.75            DISSEMINATION AND REVIEW**

### **A.        Dissemination of Code of Conduct**

The Code of Conduct is available to all persons, parents, students, or those in parental relation to the students online at the school website. Further the Board will work to ensure that the community is aware of this code of conduct by:

1.     Giving an age-appropriate plain language, summary of the code to all students at an assembly or grade level community meeting to be held at the beginning of each school year.
2.     Posting the complete code of conduct and any updates or amendments, on the district's website.
3.     Providing all current teachers and other staff members with information noting amendments to the code as soon as practicable after adoption.
4.     Providing all new employees with an online link to or a copy of the current code of conduct when they are first hired.
5.     Making copies of the complete code available for review by students, parents, or persons in parental relation to students, other school staff, and other community members.

The Superintendent may solicit the recommendations of the district staff, particularly teachers and administrators, regarding in-service programs pertaining to the management and discipline of students. On-going professional development will be included in the district's professional development plan, as needed.

### **B.        Review of Code of Conduct**

The Board will review this code of conduct every year and update it as necessary. In conducting the review, the Board will consider how effective the code's provisions have been and whether the code has been applied fairly and consistently.

The Board may appoint an advisory committee to assist in reviewing the code and the district's response to code of conduct violations. The committee may be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel, and other school personnel.

Before adopting any revisions to the code, the Board will hold at least one public hearing at which school personnel, parents, students, and any other interested party may participate. The Board will vote on the code approximately thirty days after conducting the public hearing.

The code of conduct and any amendments to it will be filed with the Commissioner of Education, in a manner prescribed by the Commissioner, no later than 30 days after adoption by the Board.