

PROJECT SAVE

SCHOOL CONDUCT AND DISCIPLINE

District Policy

Kenmore-Town of Tonawanda
Union Free School District

July 2009

Kenmore-Town of Tonawanda Union Free School District

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POLICY

On

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JULY 2009

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Preface

This code of conduct was originally developed in 1986 to implement Commissioner's Regulations New Part 100. In accordance with those regulations there have been annual reviews and substantial revisions in the District Policy: School Conduct and Discipline. The Safe Schools Against Violence in Education Act (Project SAVE) was signed into the New York State Law on July 24, 2000.

This code of conduct is one part of the components of Project SAVE. The most recent revision of this Policy was approved by the Board of Education on July 23, 2009.

The District does not discriminate on the basis of race, religion, color, national origin, sex, disability and age, in the admission of students, in any of its programs or activities and in its employment practices.

Inquiries concerning the application of this policy on non-discrimination, or complaints of discrimination under any of the above referenced bases, may be directed to the individuals designated to coordinate the District's efforts to comply with and carry out its responsibilities under Title IX, Section 504/the ADA, and the Age Discrimination Act, which prohibit discrimination on the bases of sex, disability, and age, respectively: Assistant Superintendent for Human Resources, 1500 Colvin Boulevard, Buffalo, New York 14223, 874-8400, Ext. 5335 when the situation involves employees of the district: or Director of Student Services, 1500 Colvin Boulevard, Buffalo, New York, 14223, 874-8400, Ext. 5321 when the situation involves students in the district.

Introduction

The Board of Education (“board”) 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. Responsible behavior by students, teachers, other district personnel, parents and other visitors is essential to achieving this goal.

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.

The board recognizes the need to clearly define these expectations for acceptable conduct on school property, to identify the possible consequences of unacceptable conduct and to ensure that discipline, when necessary, is administered promptly and fairly. To this end, the board adopts this code of conduct (“code”).

The board expects any supplementary building codes of conduct to be consistent with this district code in both letter and intent. Though the board recognizes differences unique to age levels and student needs, they emphasize the importance of consistency and commonality on a district-wide basis.

A school is a miniature society. Just as any society requires laws, rules are needed to enable a school to function appropriately. Our district has established rules for three primary purposes:

To assure a positive climate conducive to the learning process.

To give each person in our school-community protection and freedom with responsibility.

To assist each student in the development of self-discipline.

Our community believes that, in any educational system, expectations of students from both an academic and behavioral viewpoint should be clearly outlined. It is important that all members of our school community:

- show respect for others whether they be students, parents, school personnel, or visitors.
- have an awareness and understanding of their actions and the consequences.
- be accountable for their actions.
- be responsible for the proper use of school facilities, equipment and instructional materials.

- contribute toward the maintenance of a safe environment.

Actions in school should be guided by respect and responsibility. Actions that impede student progress and the educational process will not be tolerated.

Any actions or circumstances that degrade any person, any violence or threats of violence of any nature are not acceptable.

Respect and responsibility by everyone will help maintain a positive learning environment and an appreciation of each individual in that environment.

The conduct code will apply; within the school setting, at school-sponsored events outside the buildings and/or district, as part of transportation service. Unless otherwise indicated it applies to all students, school personnel, parents and other visitors when on school property or at any school-related function. The District also reserves the right to impose discipline for acts which constitute a violation of this code, but which occur outside of school property or a school-related function, if there is a sufficient nexus between the conduct and the District to warrant the imposition of discipline.

Definitions

For purposes of this code, unless otherwise indicated, the following definitions apply:

“Disruptive student” means an elementary or secondary student under the age of 21 who is disruptive of the educational process or substantially interferes with the teacher’s authority over the classroom or any school employee’s authority on school property.

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

“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 on any other property owned, leased or used by the District, or on a school bus, as defined in Vehicle and Traffic Law §142, or any other vehicle used by the District for programs or activities.

“School function” means any school-sponsored event or activity, including but not limited to extra-curricular and athletic events.

“Violent student” means a student under the age of 21 who, on school property or at a school function:

1. commits an act of violence upon a school employee, or threatens or attempts to do so
2. commits an act of violence upon another student or any other person lawfully on school property or at the school function, or threatens or attempts to do so.
3. possesses a Weapon.
4. displays a Weapon, or displays in a threatening way what appears to be a Weapon.
5. threatens, attempts to use and/or uses a Weapon.
6. threatens harm to a person or property
7. knowingly and intentionally damages or destroys the personal property of a person
8. 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 (A copy of the full definition of “firearm” under 18 USC § 921 is available upon written request directed to the District Clerk). It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, knife, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, 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 or in an effort to cause physical injury or death. Other applicable Federal and State laws in the administration of this paragraph are cited in Board of Education Policy #7360.

Rights and Responsibilities of Essential Partners

A. Students

Rights

The rights of all students are protected by the United States Constitution, the Constitution of New York State, laws promulgated by the federal and state governments, the regulations of the Board of Regents and the regulations and policies of the Board of Education of the Kenmore-Town of Tonawanda school, as well as decisions of federal and state courts.

In addition, there are rights that have to do with an orderly educational process. In almost all cases these rights are not absolute and in some cases they may be thought of as privilege-rights:

1. Take part in all district programs and activities equally regardless of race, color, creed, national origin, religion, gender, sexual orientation or disability.
2. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty prior to the imposition of a penalty.
3. Have access to school rules and, upon request, receive an explanation of those rules from school personnel.
4. Be provided due process rights as required by law.

Responsibilities

The right to a public education carries with it the responsibility to pursue that education in conformity with reasonable and established educational principles:

1. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and property.
2. Inform appropriate personnel of a dangerous situation.
3. Be familiar with and abide by all district policies, rules and regulations dealing with student conduct.
4. Attend school every day unless they are legally excused and be in class on time 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.
6. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
7. Work to develop mechanisms to control their anger.
8. Ask questions when they do not understand.
9. Seek help in solving problems that might lead to discipline.
10. Dress appropriately for school and school functions.
11. Accept responsibility for their actions.

12. Conduct themselves in a positive manner 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.

Essential Partners (cont.)

B. Parents

All parents are expected to:

1. Recognize that the education of their child is a joint responsibility of parents and the school community.
2. Send their children to school ready to participate and learn.
3. Ensure their children attend school regularly and on time and do not condone illegal absences.
4. Support the student dress code.
5. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
6. Know school rules and help their children understand them.
7. Convey to their children a supportive attitude toward education and the school district.
8. Participate in the school activities.
9. Build good relationships with teachers, other parents and their children's friends.
10. Help their children deal effectively with peer pressure.
11. Inform school officials of changes in the home situation that may affect student conduct or performance.
12. Provide a place for study and ensure homework assignments are completed.

C. Teachers

All district teachers are expected to:

1. Maintain a climate of mutual respect and dignity which will strengthen students' self-concept and promote confidence to learn.
2. Know their subject matter and how to teach it.
3. Reflect concern for student achievement.
4. Know school policies and rules, and enforce them in a fair and consistent manner.
5. Communicate to students and parents:
 - a. Course objectives and requirements
 - b. Marking/grading procedures
 - c. Assignment deadlines
 - d. Expectations for students.
6. Communicate with students, parents and other staff concerning students' growth, achievement and overall performance.

D. Counselors

All district counselors are expected to:

1. Assist students in coping with peer pressure and emerging personal, social and emotional problems.

2. Initiate teacher/student/counselor conferences and parent/teacher/student/counselor conferences, as necessary, as a way to resolve problems.
3. Regularly review with students their educational progress and career plans.
4. Provide information to assist students with career planning.
5. Encourage students to benefit from the curriculum and extracurricular programs.

E. Support Staff

All support staff are expected to:

1. Assist in the maintenance of a climate of mutual respect and dignity.
2. Demonstrate an interest in the educational process.
3. Assist each department to contribute in its unique way toward the educational process.
4. Know the school policies and rules and help enforce them in a fair and consistent manner.

F. Administrators

All district administrators and supervisors are expected to:

1. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. Ensure that students and staff have the opportunity to communicate regularly with the administrators and approach the principal for redress of grievances.
3. Evaluate on a regular basis all instructional programs.
4. Support the development of and student participation in appropriate extracurricular activities.
5. Be responsible for enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

G. Superintendent

The Superintendent is expected to:

1. Promote a safe, orderly and stimulating school environment that supports teaching and learning.
2. Inform and review with district administrators the policies of the board of education and state and federal laws relating to school operations and management.
3. Inform the board about procedures relating to student discipline.
4. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.

H. Board of Education

The Board is expected to:

1. 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.
2. 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.

3. Lead by example by conducting board meetings in a professional, respectful, courteous manner.

Student Appearance Code

Students and parents have the primary responsibility for compliance with acceptable standards for student dress and appearance, and therefore will give proper attention to personal cleanliness and appropriate dress for school and all school related activities. Teachers, administrators, and other District personnel will exemplify and reinforce acceptable dress standards and assist students in developing an understanding of the standards for appropriate appearance as stated in the Student Appearance Code.

The following standards support a safe and positive learning environment, while minimizing distractions in the school setting. Established by a representative committee of students, parents, teachers, support staff, and administrators they apply to all Kenmore-Tonawanda UFSD students independent of age, grade level, or location.

- Any article depicting language, images, or themes that denigrate others on account of race, color, religion, creed, national origin, gender, sexual orientation, or disability is prohibited.
- Any article that advertises, displays, or represents themes related to alcohol, drugs; illegal, abusive, suggestive, or controversial messages; or gang related activities are prohibited.
- Any article that poses (or may pose) a threat to the health, safety, and wellbeing of others (including but not limited to decorative chains, wallet chains, studded bracelets, belts, and/or jewelry) is prohibited.
- Hats or headgear of any kind (with the exception of hair bands and apparel for religious observance or medically required apparel) are prohibited.
- See-through and strapless garments are not to be worn. Modest tanks are appropriate as long as the chest area is covered from the top of the armpit down. Midriffs are to be covered. Exposure of skin between the bottom of the shirt and the top of pants is prohibited.
- Pants, shorts and skirts must be designed to be worn at waist level, and are to be worn as designed. Undergarments must not be visible, and no visible writing, symbols, and/or emblems are to appear on the back-side.
- Pants, shorts, and skirts must be of a modest length (reference finger length — hands fully extended at sides).
- Appropriate soled footwear that does not pose a safety hazard must be worn at all times.
- Sleepwear of any kind (including but not limited to pajamas, pajama pants, bathrobes, and slippers) is prohibited.
- Form fitting/Spandex type clothing (as a primary layer) is prohibited.
- Outdoor attire (including but not limited to hats, coats, jackets, parkas, gloves, and scarves) is not to be worn in school, and will remain in a student's locker during the school day.
- Backpacks, knapsacks, and book/gym bags will remain in a student's locker during the school day.

Students in violation of the Student Appearance Code, at the discretion of school officials, will be required to cover, remove, or modify any inappropriate article, and if necessary or practical, replace it with an acceptable article. The determination as to whether or not a student is in violation of any portion of this code will be at the sole discretion of building administration. Refusal to comply with the requests

of school officials, and/or repeated Student Appearance Code violations may result in disciplinary action, up to and including out of school suspension.

Electronic Communication Device Code

Students are prohibited from displaying, using, or having on or in an operational mode, any paging device, mobile telephone, cellular telephone, laser pointer or pen, or any other type of telecommunications, multi-media or imaging device during regular school hours, except as expressly permitted in connection with a class assignment or unless specifically authorized by a school official. While students are permitted to possess such devices during the school day, they are prohibited from using them in any manner that interferes with, or is disruptive of, the educational process or invades the privacy of students, employees, volunteers, or visitors. Violation of this prohibition will result in temporary confiscation and/or possible inspection of the device.

Student Conduct Code

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.

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 misbehavior. District 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.

The board recognizes the need to make its expectations for student conduct while on school property 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 penalties for their conduct.

Students may be subject to disciplinary action, up to and including suspension from school, when, on School Property or in relation to a School Function, they:

A. Engage in conduct that is disorderly. Examples of disorderly conduct include:

1. Running in hallways.
2. Making unreasonable noise.
3. Using language or gestures that are profane, lewd, vulgar or abusive.
4. Obstructing vehicular or pedestrian traffic.
5. Violation of traffic laws and regulations.
6. Engaging in any willful act which disrupts 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; nor in any facility within a building that is unattended.
8. Loitering
9. Computer/electronic communications misuse, including any unauthorized use of computers, software, or internet/intranet account; accessing inappropriate websites; or any other violation of the district's acceptable use policy.
10. Unauthorized use of personal electronic equipment.

B. Engage in conduct that is insubordinate. Examples of insubordinate conduct include:

1. Failing to comply with the reasonable directions of teachers, school administrators or other school employees in charge of students or otherwise demonstrating disrespect.
2. Leaving school without permission.
3. Skipping detention.
4. Truancy from class, school, scheduled activities; unexcused absences.

C. Engage in conduct that is disruptive. Examples of disruptive conduct include:

1. Failing to comply with the reasonable directions of teachers, school administrators or other school personnel in charge of students.
2. Substantially interferes with the educational process and/or the authority of any responsible staff member.
3. Repeatedly violates school rules.

D. Engage in conduct that is violent or threatening. Examples of violent or threatening conduct include:

1. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon a teacher, administrator or other school employee or attempting or threatening to do so.
2. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon another student or any other person on school property or attempting or threatening to do so.
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. Displaying a Weapon, or displaying in a threatening manner what appears to be a Weapon.
5. Threatening to use, attempting to use and/or using any Weapon.
6. Threatening harm to self or others.
7. Intentionally damaging or destroying the personal property of a student, teacher, administrator, other district employee or any person lawfully on school property, including graffiti or arson.
8. Intentionally damaging or destroying school district property.

E. Engage in any conduct that endangers the safety, morals, health or welfare of others. Examples of such conduct include:

1. Lying to school personnel.
2. Stealing the property of other students, school personnel or any other person lawfully on school property or attending a school function, or attempting to do so.
3. 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.
4. Discrimination, which includes the use of race, color, creed, national origin, religion, gender, sexual orientation or disability as a basis for treating another in a negative manner.

5. Harassment, which includes an action or statement, or a pattern of actions or statements, directed at an identifiable individual or group which are intended to be or which a reasonable person would perceive as ridiculing or demeaning, including but not limited to all forms of harassment prohibited in the District's anti-harassment policy, which is incorporated as a part of this Code of Conduct.
6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm.
7. Teasing and bullying that is ridiculing or demeaning or causes discomfort of the recipient.
8. Hazing, which includes any intentional or reckless act directed against another for the purpose of initiation into, affiliating with or maintaining membership in any school sponsored activity, organization, club or team.
9. Selling, using or possessing obscene material.
10. Using vulgar or abusive language, cursing or swearing.
11. Possessing tobacco, tobacco products, and associated paraphernalia.
12. Possessing, consuming, selling, distributing or exchanging alcoholic beverages or illegal substances (and associated paraphernalia), or being under the influence of either. "Illegal substances" include, but are not limited to inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, and any substances commonly referred to as "designer drugs."
13. Inappropriately using, possessing, or sharing prescription and/or over-the-counter drugs.
14. Gambling.
15. Indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
16. Initiating a report, warning or threat of fire or other catastrophe (including but not limited to a bomb threat or a threat of harm from a chemical or biological substance) without valid cause, misuse of 911, or discharging a fire extinguisher.

F. Engage in misconduct while on a school bus. 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. Examples of academic misconduct include:

1. Plagiarism.
2. Cheating.
3. Copying.
4. Altering records.
5. Assisting another student in any of the above actions.

H. Instigating or encouraging another person to violate this Code of Conduct, or facilitating and/or assisting the same.

Reporting Violations/Suspicion of Violations

All students are expected to promptly report a violation of the code of conduct, or a reasonable suspicion of a violation of this code of conduct, to a teacher, 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 or observed to be under the influence of alcohol or an illegal substance shall report this information immediately to a teacher, the building principal, the principal's designee or the superintendent.

District staff who are not authorized to impose disciplinary sanctions are expected to promptly report violations of the code of conduct to their supervisor, who shall in turn impose an appropriate disciplinary sanction, if so authorized, or refer the matter to a staff member who is authorized to impose an appropriate sanction.

Disciplinary Procedures, Penalties and Referrals / Student Disciplinary Records

Discipline is most effective when it deals 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.

District staff who are not authorized to impose disciplinary sanctions are expected to promptly report violations of the code of conduct to their supervisor.

Disciplinary action, when necessary, will be firm, fair and consistent so as to be the most effective in changing student behavior. In determining the appropriate disciplinary action, school personnel authorized to impose disciplinary penalties 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, including the passage of time since and the relevance of any past acts of misconduct and/or violations of school policies and codes.
4. The effectiveness of other forms of discipline.
5. Information from parents, teachers and/or others, as appropriate.
6. Other extenuating circumstances.

Where appropriate, discipline will be progressive. This means that a student's first violation will usually merit a lesser penalty than subsequent violations, taking into account all factors relevant to the severity

of the current violation. The particular circumstances of a violation may, however, warrant a severe form of disciplinary action even if it is the student's first offense.

The District will maintain a complete record of each student's disciplinary record, if any, during the student's enrollment in the District's schools. As indicated above, past instances of discipline may be relevant to the determination of the appropriate level of discipline for a current violation of this Code. However, in making such a determination, the District shall consider the passage of time since and the relevance of any such past instances of misconduct, including consideration of the student's age at the time of any such past instances and any other explanatory and/or mitigating circumstances.

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 sanction if warranted. This may include permanent suspension and referral for prosecution.

The building principal or his or 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 or 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. (See A-11, Statement 5, in Appendix).

Nothing in this Code shall limit the District's authority to impose disciplinary action in circumstances where conduct in violation of this Code occurs outside of School Property or a School Function, but where there is nonetheless a nexus between the conduct and the District such that discipline is appropriate.

A. Disciplinary Options

Students who are found to have violated the district's code of conduct may be subject to penalty, either alone or in combination, as outlined below.

The school personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

Note: Involuntary transfers, mandatory referrals for counseling, and community services are not included in the list of penalties. The Commissioner has held that these are not appropriate disciplinary procedures.

The amount of due process a student is entitled to receive before a penalty is imposed depends on the penalty being imposed. In all cases, regardless of the penalty imposed, the school personnel authorized to impose the penalty must inform the student of the alleged misconduct and must investigate, to the extent necessary, the facts surrounding the alleged misconduct. All students will have an opportunity to

present their version of the facts to the school personnel imposing the disciplinary penalty in connection with the imposition of the penalty.

Options

1. Oral warning – any member of the district staff
2. Written warning – bus drivers, hall and lunch monitors, coaches, counselors, teachers, principals, superintendent
3. Written notification to parent – bus drivers, hall and lunch monitors, coaches, guidance counselors, teachers, principals, superintendent
4. Detention – teachers, principals, superintendent
5. Suspension from transportation – director of transportation, principals, superintendent
6. Suspension from athletic participation – coaches, principals, superintendent
7. Suspension from social or extracurricular activities – activity directors, principals, superintendent
8. Suspension of other privileges – principals, superintendent
9. Removal from classroom by teacher – teachers, principals
10. In-school suspension – principals, superintendent
11. Short-term (five days or less) suspension from school – principals, superintendent, board of education
12. Long-term (more than five days) suspension from school – principals, superintendent, board of education
13. Restitution of damaged or stolen goods or property
14. Legal action through Family Court and/or law enforcement agencies.
15. Under certain circumstances, a permanent suspension may be warranted. However, permanent suspension is an extreme penalty that the Commissioner of Education has held is generally educationally unsound except under extraordinary circumstances such as where the student exhibits an alarming disregard for the safety of others and where it is necessary to safeguard the well-being of other students.

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

1. Detention:

Teachers, principals and the superintendent may use after-school detention as a penalty for student misconduct in situations where removal from the classroom or suspension would be inappropriate. Detention will be imposed as a penalty if there is assurance that there is not parental objection to the penalty and the student has appropriate transportation home following detention.

2. Suspension from transportation:

If a student does not conduct himself/herself properly on a bus, the bus driver is expected to bring such misconduct to the building principal's attention. Students who become a serious disciplinary problem may have their riding privileges suspended by the building principal or the superintendent or

their designees. In such cases, the student's parent will become responsible for seeing that his or her 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 the student's parent will be provided with a reasonable opportunity for an informal conference with the building principal or the principal's designee to discuss the conduct and the penalty involved.

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 the student's parent will be provided with reasonable opportunity for an informal conference with the district official imposing the suspension to discuss the conduct and the penalty involved. Complete information regarding any additional terms of participation in interscholastic athletics and extra-curricular activities may be outlined in individual code of conduct documents particular to such athletics and activities.

4. In-school suspension:

The board recognizes the school must balance the need for students to attend school and the need for order in classroom to establish an environment conducive to learning. As such, the board authorizes building 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".

A student subjected to an in-school suspension is not entitled to a full hearing pursuant to Education Law §3214. However, the student and 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 penalty involved.

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 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: short-term "time away" facility in an elementary classroom or in an administrator's office; sending a student to the principal's office for the remainder of the class time only; or sending a student to a 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.

On occasion, a student's behavior may become disruptive. 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. 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 may remove a disruptive student from class for up to three days. The removal from class applies to the class of the removing teacher only.

If the disruptive student does pose a danger or ongoing threat of disruption to the academic process, 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.

The teacher must complete an appropriate removal form and meet with the principal or his or her designee as soon as possible, but no later than the end of the school day, to explain the circumstances of the removal and to present the removal form. 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. The teacher is expected to contact the parent by telephone to provide notification of the removal and the reason.

Within 24-hours after the student's removal, the principal or another district administrator designated by the principal must notify the student's parents, in writing, 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 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 student's removal at the last known address for the parents. 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 parents.

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 should 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 principal's designee may rescind 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 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 his or her designee may rescind 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, if a conference is requested. 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 shall be offered continued educational programming and activities until he or she is permitted to return to the classroom.

Each teacher must keep a complete log (on a district provided form) for all cases of removal of students from his or her class. The principal must keep a log of all removals of students from class.

Removal of a student with a disability is permitted provided that the removal would not constitute a disciplinary change in placement. A *disciplinary change in placement* means a suspension or removal from a student's current educational placement that is either:

1. 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.

A student with a disability may not undergo a disciplinary change in placement unless the manifestation determination review team determines that the student's misconduct was not the manifestation of his disability or the rules governing the placement of a student in an interim alternative educational setting are satisfied.

The removal of a student with a disability from a classroom by a teacher in accordance with Section 3214 (3-a) would not constitute a removal and potentially trigger a disciplinary change in placement if the continued educational programming meets certain standards:

1. The student is afforded the opportunity to continue to appropriately progress in the general curriculum;
2. The student continues to receive the services specified in his or her IEP; and
3. The student continues to participate with non-disabled students to the extent they would have in their current placement.

These conditions may be met when a student is removed to an in-school suspension room or its equivalent.

6. Suspension from school:

Suspension from school is a severe penalty 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.

The board retains its authority to suspend students, but places primary responsibility for the suspension of students with the superintendent and the building principals.

Any staff member may recommend to the superintendent or the principal that a student be suspended. All staff members must immediately report and refer a violent student to the principal or the superintendent for a violation of the code of conduct. All recommendations and referrals shall 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 superintendent or principal, upon receiving a recommendation or referral for suspension or when processing a case for suspension, shall gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

a. Short-term (5 day or less) suspension from school

When the superintendent or principal (referred to as the “suspending authority”) proposes to suspend a student charged with misconduct 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 misconduct, 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 at the last known address for the parents. 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 the right to request an immediate 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 of complaining witnesses 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 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 shall promptly advise the parents in writing of his or her decision. The principal shall 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 five 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 within 30 days of the decision.

b. Long-term (more than 5 days) suspension from school

When the superintendent or building principal 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 him or her and the right to present witnesses and other evidence on his or her behalf.

The superintendent shall personally hear and determine the proceeding or may, in his or her discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him or her. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the superintendent. The report of the hearing officer shall 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 that 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 10 business days of the date of the superintendent's decision, unless the parents can show that extraordinary circumstances precluded 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 within 30 days of the decision.

c. Permanent suspension

Permanent suspension is reserved for extraordinary circumstances such as where a student's conduct exhibits an alarming disregard for the safety of others and/or 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.

C. Minimum Periods of Suspension

1. Students who possess/use and/or attempt to use a Weapon:

Any student, other than a student with a disability, found guilty of possessing and/or attempting to use and/or using a Weapon on School Property or at a School Function, 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 penalty, the superintendent shall consider the following:

1. The student's age.
2. The student's grade in school.
3. The student's prior disciplinary record, including the passage of time since and the relevance of any prior acts of misconduct and/or violation of school policies or codes.
4. The superintendent's belief that other forms of discipline may be more effective.
5. Input from parents, teachers and/or others.
6. The student's intent in possessing the Weapon in school.

7. Other extenuating circumstances.

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

Note: *Calendar year is defined as January – December; school year July – June.*

2. Students who commit violent acts other than possessing, using and/or attempting to use a Weapon:

Any student, other than a student with a disability, who is found to have committed an act which makes him/her a Violent Student under this Code, other than possessing, using and/or attempting to use a Weapon, shall be subject to suspension from school for at least five days. If the proposed penalty is the minimum five-day suspension, the student and the student's parents 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 parents will 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 five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a Weapon.

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

Any student, other than a student with a disability, 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 five days. 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 penalty is the minimum 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 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 five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the superintendent may consider the same factors considered in modifying a one-year suspension for possessing a Weapon.

Alternative Instruction

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

alternative instruction to those students not of compulsory school attendance age. When a student with a disability is to be suspended or removed for more than ten consecutive school days, the Committee on Special Education shall convene to determine the services to be provided during the suspension to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP. When a student with a disability is to be suspended or removed for ten or less days, the student's instructor or tutor during the suspension shall consult with at least one of the student's regularly-assigned teachers to determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student's IEP.

Discipline of Students with Disabilities

The board recognizes that it may be necessary to suspend, remove or otherwise discipline students with disabilities to address disruptive or problem behavior. The board also recognizes that under certain circumstances, students with disabilities may have certain procedural protections when school authorities intend to impose discipline upon them. The board is committed to ensuring that the procedures followed for suspending, removing or otherwise disciplining students with disabilities are consistent with the procedural safeguards required by applicable laws and regulations.

A. Authorized Suspensions or Removals of Students with Disabilities

1. For purposes of this section of the code of conduct, the following definitions apply.

A "suspension" means a suspension pursuant to Education Law §3214.

A "removal" means: (a) a removal of a student with a disability for disciplinary reasons from the student's current educational placement, other than a suspension as defined above, or (b) the change in placement of a student with a disability to an interim alternative educational setting (IAES).

An "IAES" means a temporary educational placement for a period of up to 45 school days, other than the student's current placement at the time the behavior precipitating the IAES placement occurred, that enables the student to continue to progress in the general curriculum, although in another setting, to continue to receive those services and modifications, including those described on the student's current individualized education program (IEP), that will enable the student to meet the goals set out in such IEP, and include services and modifications to address the behavior which precipitated the IAES placement that are designed to prevent the behavior from recurring. Upon an order placing a student in an IAES, the specifics of the IAES shall be determined by the CSE.

2. The superintendent of schools, either directly or upon the recommendation of a hearing officer designated to conduct a superintendent's hearing pursuant to the Education Law, may order the change in placement of a student with a disability to an appropriate IAES, to be determined by the CSE, for up to 45 school days, but not to exceed the amount of time a non-disabled student would be subject to suspension for the same behavior. The superintendent may order the placement of a student in an IAES following: (a) a determination by the superintendent or his designee at a superintendent's hearing that the student is guilty of the alleged misconduct, (b) a determination by the manifestation determination review team that the student's misconduct is a manifestation of his disability, and (c) a determination by the superintendent or his designee that the student, while at school or at a school function,

inflicted serious bodily injury upon another person, carried or possessed a Weapon, or knowingly possessed or used illegal drugs or sold or solicited the sale of a controlled substance.

- a. "Serious bodily injury" means the same as "serious bodily injury" as defined under Section 1365(h) (3) of Title 18, U.S. Code, which is a bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
 - b. "Weapon" means the same as defined elsewhere in this Code.
 - c. "Controlled substance" means a drug or other substance identified in certain provisions of the federal Controlled Substances Act specified in both federal and state law and regulations applicable to this policy.
 - d. "Illegal drugs" means a controlled substance except for those legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or any other federal law.
3. If the district determines that a student with a disability should be placed in an IAES, and the requirements set forth above are not satisfied, the district may request an IAES by commencing an impartial due process hearing. Subject to specified conditions required by both federal and state law and regulations, an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 school days at a time, if the impartial hearing officer determines that maintaining the student in his current educational placement is substantially likely to result in injury to the student or others.

B. Change of Placement Rule

1. A 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.
2. The district shall determine whether a pattern of removals constitutes a disciplinary change in placement on a case-by-case basis. The district's determinations are subject to review through due process and judicial proceedings.
3. School personnel may not suspend or remove a student with a disability if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal, unless the manifestation determination review team determines that the student's misconduct was not a manifestation of the student's disability, or the rules governing the placement of a student with a disability in an IAES for behavior involving Weapons, illegal drugs or controlled substances are satisfied.

C. Special Rules Regarding the Suspension or Removal of Students with Disabilities

1. The CSE shall conduct a functional behavioral assessment to determine why a student engages in a particular behavior, and develop or review a behavioral intervention plan whenever the district is first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes a disciplinary change in placement, including a change in placement to an IAES for misconduct involving Weapons, illegal drugs or controlled substances. If subsequently, a student with a disability who has a behavioral intervention plan and who has been suspended or removed from his or her current educational placement for more than 10 school days in a school year is subjected to suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary. If one or more members of the CSE believe that modifications are needed, the CSE shall modify such plan and its implementation, to the extent deemed necessary.
2. The parents of a student who is facing disciplinary action, but who has not been determined to be eligible for services under IDEA and Article 89 at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and state statutory and regulatory criteria, the school district is deemed to have had knowledge that their child was a student with a disability before the behavior precipitating disciplinary action occurred. If the district is deemed to have had such knowledge, the student will be considered a student presumed to have a disability for discipline purposes.
 - a. The superintendent, building principal or other school official imposing a suspension or removal shall be responsible for determining whether the student is a student presumed to have a disability.
 - b. A student will not be considered a student presumed to have a disability for discipline purposes if, despite the district's previous receipt of information supporting a claim that it had knowledge that the student is a student with a disability:
 - i. the parent of the student previously did not allow the district to conduct an individual evaluation of the student to determine whether the student was a student with a disability; or
 - ii. the parent of the student previously refused to provide consent for the provision of special education services; or
 - iii. the CSE or CPSE previously determined that the student was 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 a request for an individual evaluation is made while such non-disabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted and completed in the manner prescribed by applicable federal and state law and regulations. Until the expedited evaluation is completed, the non-disabled student who is not a student presumed to have a disability for discipline purposes, shall remain in the educational placement determined by the district, which can include suspension.

3. The district shall provide notice of a disciplinary removal to the parents of a student with a disability no later than the date on which a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement or place the student in an IAES. The procedural safeguards notice prescribed by the Commissioner shall accompany the notice of disciplinary removal.
4. The parents of a student with a disability subject to a suspension of five consecutive school days or less shall be provided with the same opportunity for an informal conference available to parents of non-disabled students under the Education Law.
5. Superintendent's hearings on disciplinary charges against students with disabilities subject to a suspension of more than five school days shall be separated into a guilt phase and a penalty phase in accordance with the procedures set forth in the Commissioner's regulations.
6. The removal of a student with a disability other than a placement in an IAES shall be conducted in accordance with the due process procedures applicable to such removals of non-disabled students, except that school personnel may not impose a suspension or removal that would result in a disciplinary change in placement unless the manifestation determination review team determines that the student's misconduct is not a manifestation of the student's disability.
7. During any period of suspension or removal, including placement in an IAES, students with disabilities shall be provided services as required by the Commissioner's regulations incorporated into this code.

D. Expedited Due Process Hearings

1. An expedited due process hearing shall be conducted in the manner specified by the Commissioner's regulations incorporated into this code, if:
 - a. The district requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel claim that maintaining the student in his current educational placement is substantially likely to result in injury to the student or others.
 - b. The parent requests such a hearing to challenge a determination by the manifestation determination review team that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding the placement of the student in an IAES.
2. During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES or regarding a determination that the student's misconduct is not a manifestation of the student's disability, the student shall remain in the IAES pending the decision of the impartial hearing officer or until expiration of the IAES placement, whichever occurs first, unless the parents and the district agree otherwise.
3. A resolution meeting shall occur within seven days of the non-moving party's receipt of the request for an expedited hearing. If the matter is not resolved at the resolution meeting, the expedited due

process hearing shall occur within 20 school days of the date that the hearing request is filed. The impartial hearing officer shall make a determination within 10 school days after the hearing. No extension to the expedited impartial hearing timeline may be granted.

E. Referral to law enforcement and judicial authorities

In accordance with the provisions of IDEA and its implementing regulations:

1. The district may report a crime committed by a child with a disability to appropriate authorities, and such action will not constitute a change of the student's placement.
2. The superintendent shall ensure that copies of the special education and disciplinary records of a student with disabilities are transmitted for consideration to the appropriate authorities to whom a crime is reported.

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.

However, in situations where alternative procedures and methods that do not involve the use of physical force cannot be reasonably be used, reasonable physical force may be used to:

1. Protect oneself, another student, teacher or any person from physical injury.
2. Protect the property of the school or others.
3. Restrain or remove a student whose behavior interferes with the orderly exercise and performance of school district functions, powers and duties, if that student has refused to comply with a request to refrain from further disruptive acts.

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

Alternative Education Programs

Options for a student making unsatisfactory adjustments to the learning situation:

- 1.** At the elementary level there should be provisions informally for time away under the supervision of a trained professional and with knowledge of the parent. Pupils whose problems persist will be conferenced by the Instructional Support Team for consideration of a referral to the

Committee on Special Education, in-building program modification under Section 504, or an outside agency referral.

2. At the middle school level several alternatives may be utilized:

- a. In-school suspension
- b. Referral to an alternative learning program
- c. Referral to the Committee on Special Education

d. Home instruction on an emergency basis; long term instruction following a Superintendents' hearing

3. At the high school level several alternatives may be utilized:

- a. In-school suspension; out of school suspension, short term and long term
- b. Referral to an occupational work experience alternative program
- c. Referral to an academically oriented alternative program
- d. Referral to the Committee on Special Education

e. Home instruction on an emergency basis; long term instruction following a Superintendent's hearing

- f. Referral to the GED 16-17 alternative program
- g. Referral to the GED for students 18 and over.

Maintenance Of Public Order on School Property

Purpose and Intent

- a. It is the purpose and intent of these rules and regulations to comply with the requirements of Chapter 740 of the laws of 1972, which created Article 55

of the Education Law relative to maintenance of public order on school property.

- b. These rules shall apply on all school district property. The rules hereby adopted shall govern the conduct of students, faculty, administrators, and other staff, licensees, invitees, and all other persons, whether or not their presence is authorized upon the property of the district.
- c. The Board of Education does not intend that these rules and regulations should govern all aspects of school operation, procedure, and discipline, but only those aspects, which involve maintenance of public order on school property.
- d. It is not intended that these rules and regulations should abrogate or otherwise deny freedom of speech or peaceful assembly, or infringe upon the legitimate civil rights of any citizen.

Student Questioning and Searches by School Officials and School Resource Officers (SRO)

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 penalty 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. SRO’s may be present during questioning of students by school officials but may not instigate or direct the questioning, give instructions, etc.

In addition, the board authorizes the superintendent, building principals, assistant principals, program supervisors, and the school nurse to conduct searches of students and their belongings 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. SRO’s may be present during a search conducted by one of the above authorized school officials. SRO’s may also assist in the conduct of the search, if acting in conjunction with and at the direction of an authorized school official who has formed the reasonable suspicion. In contrast, SRO’s acting on their own and without direction of school officials must have probable cause to search students and their belongings.

In all cases, regardless of who conducts the search, a second person must always be present to serve as a witness.

In some instances, an authorized school official can form the reasonable suspicion required to search a student or the student’s belongings based upon information received from a reliable informant. Factors to be considered in evaluating an informant’s tip may include: the basis for the informant’s knowledge; whether the informant has previously supplied information that was accurate and verified; whether during the course of supplying information the informant makes an admission against their own

interest; whether the informant is providing the same information that is received independently from other sources, or the informant appears to be credible and the information they are communicating relates to an immediate threat to safety. Face to face informants are generally thought to be more reliable than anonymous tipsters; however, each situation must be considered based on the totality of the circumstances.

Searches will be limited in scope to the extent necessary to locate the evidence sought. No school official shall conduct more intrusive searches, such as strip searches, unless such searches have been approved by the applicable district level administrator in consultation with the school attorney.

Whenever practicable, searches will be conducted in the privacy of administrative offices. Students may be present when their possessions are being searched if appropriate.

Student Lockers, Desks and other School Storage Places

The requirements in this code of conduct regarding reasonable suspicion to conduct searches of students and their belongings do not apply to student lockers, desks and other school storage places. Students are hereby put on notice that lockers, desks and other school storage places are district property and therefore they have no reasonable expectation of privacy with respect to these places. School officials retain complete control over student lockers, desks and other school storage places and therefore they may be subject to search at any time by school officials, without prior notice to students and without their consent.

Documentation of Searches

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

1. Name, age and grade of student searched.
2. A description of the facts which form the basis for reasonable suspicion to conduct the search.
3. Purpose of search (that is, what item(s) was being sought).
4. Type and scope of search.
5. Person conducting search and his or her title and position.
6. Witnesses, if any, to the search.
7. Time and location of search.
8. Results of search (that is, what items(s) were found).
9. Disposition of items found.
10. Time, manner and results of parental notification.

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

Questioning and Searches of Students by Police/Law Enforcement Authorities

District officials are committed to cooperating with police officials and other outside law enforcement authorities in order 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 otherwise use school facilities in connection with police work unrelated to the school environment. Therefore, contact with students by police officials or other outside law enforcement authorities on school property or at school functions shall be governed by the following:

Police or other outside law enforcement officials who wish to interview or question students about alleged criminal conduct unrelated to the school environment must take the matter up directly with the student's parents/guardians, unless they have a warrant for the student's arrest or removal. The District has no authority to make students available for general police department work.

In contrast, police or other outside law enforcement officials may be summoned by school officials for the purpose of maintaining or restoring order when the presence of such officers is necessary to prevent injury to persons or property. Police or other outside law enforcement officials may also be summoned by school officials to conduct an investigation of criminal conduct alleged to have occurred on school premises or during a school sponsored activity.

Once summoned by school officials, police or other outside law enforcement officials may be permitted to interview or question a student without the presence or consent of that student's parent/guardian when:

1. They have a warrant for the arrest or removal of the student; or,
2. The questioning concerns a crime committed on school property and the student is not a suspect.

In all other circumstances, parental presence or consent is required before the student may be questioned by police or other outside law enforcement officials.

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 that police officials may be required to advise them and/or their parent/guardian:

1. Of the student's right to remain silent;
2. That the statements made by the student may be used as evidence against them;
3. Of the student's right to have an attorney present at such questioning.

Police or other outside law enforcement officials must have probable cause or a search warrant to conduct a search of a student or a student's belongings.

The principal or designee will be present during any police questioning or search of a student on school property or at a school function.

Child Protective Services Investigations

Consistent with the district's commitment to keep students safe from harm and the obligation of school officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, the district will cooperate with local child protective services workers who wish to conduct interviews of students on school property relating to allegations of suspected child abuse, and/or neglect, or custody investigations.

All requests by child protective services to interview a student on school property shall be made directly to the building principal or his or her designee. The principal or his or her designee shall set the time and place of the interview. The principal or designee shall decide if it is necessary and appropriate for a school official to be present during the interview, depending on the age of the student being interviewed and the nature of the allegations. If the nature of the allegations is such that it may be necessary for the student to remove any of his or her clothing in order for the child protective services worker to certify the allegations, the school nurse or other district medical personnel must be present during that portion of the interview. No student may be required to remove his or her clothing in front of a child protective services worker or school district official of the opposite sex.

A child protective services worker may not remove a student from school property without a court order, unless the worker reasonably believes that the student would be subject to danger of abuse if he or she were not removed from school before a court order can reasonably be obtained. If the worker believes the student would be subject to danger of abuse, the worker may remove the student without a court order and without the parent's consent.

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. The building 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:

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

2. All visitors to the school must report to the office of the principal upon arrival at the school. There they will be required to 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 return the identification badge to the principal's office before leaving the building.

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

4. Parents or citizens who wish to observe a classroom while school is in session are required to arrange such visits in advance with the classroom teacher(s), so that class disruption is kept to a minimum.
5. Teachers are expected not to take class time to discuss individual matters with visitors.
6. 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.
7. All visitors are expected to abide by the rules for public conduct on school property contained in this code of conduct.

Public Conduct on School Property

The district is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on school property and at school functions. For purposes of this section of the code, “public” shall mean all persons when on school property or attending a school function including students, teachers and district personnel.

The restrictions on public 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 maintain public order and prevent abuse of the rights of others.

All persons on school property or attending a school function shall conduct themselves in a respectful and orderly manner. In addition, all persons on school property or attending a school function are expected to be properly attired for the purpose they are on school property.

A. Prohibited Conduct

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten to do so.
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 based on, but not limited to, race, color, creed, national origin, religion, age, gender, sexual orientation, disability, or personal characteristics outside the accepted norm.
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, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.

10. Possess, attempt to use and/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 or encourage 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.

B. Penalties

Persons who violate this code shall be subject to the following penalties:

1. 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 removal and/or prosecution for trespass.

2. Students. They shall be subject to disciplinary action as the facts may warrant, in accordance with this Code.

3. Faculty and staff members. They shall be subject to administrative and/or disciplinary action consistent with the terms of their employment.

C. Enforcement

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

When the building principal or his or her designee sees an individual engaged in prohibited conduct, which in his or her judgment does not pose any immediate threat of injury to persons or property, the principal or his or her designee shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The principal or his or her designee shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the prohibited conduct, or if the person's conduct poses an immediate threat of injury to persons or property, the principal or his or her 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 “Penalties” section above. In addition, the district reserves its right to pursue a civil or criminal legal action against any person violating the code.

Early Identification

Staff members have the responsibility for identifying at the earliest possible age those students whose behavior interferes with their own academic, personal, social, and/or emotional growth or whose behavior is disruptive to the learning environment. If these behaviors appear persistent and not readily resolved through short-term interventions in cooperation with parents, all building and district resources should be utilized to determine possible causes for these behaviors and to seek solutions that can be dealt with initially at the building level. Participants in this process should include parents, Student Services staff, administrators, instructional and non-instructional staff, and outside agency staff.

The basic goal is prevention.

Procedures to Implement the Policy

1. Each building will maintain a daily audit of each student’s school and class attendance, both tardiness and absence, for all or part of a day. Each building will notify the parents of instances of absence and tardiness as described in the district attendance policy (see Appendix).
2. Each building will maintain a log of referrals from staff to building administrators for disciplinary reasons. Each building will notify parents of referrals.
3. Staff will refer cases of students with repeated instances of unexcused absence and tardiness and cases of students with persistent behavior problems to the building evaluation, core, or crisis intervention team for review. The team will conference each case, share information on the student, agree upon procedures for investigating possible causes for the student’s difficulty, and develop a treatment plan separate from the immediate disciplinary action. Parents will be kept informed of these procedures and involved in the treatment plan. When in-building resources have been exhausted, referrals should be made to the district Attendance Counselor and/or Student Services staff for follow-up, depending on the nature of the presenting problem.
4. In seeking possible causes staff need to differentiate among learning problems, physical problems, emotional disturbances, and cultural/environmental factors as causes of behavior problems. School psychologists, remedial specialists, speech therapists, school nurses, special education teachers, counselors, social workers, and parents are the primary resources for assisting a staff in conducting a comprehensive analysis. The building teams are the primary vehicles for reviewing problems of pupils.

5. If the staff has sufficient reason to believe that an educationally disabling condition is the primary cause of the student's unacceptable behavior, any member of that staff, a building administrator/supervisor, or a parent has the right and responsibility to refer that student to the Committee on Special Education for evaluation. The Committee, in turn, has the responsibility to conduct a comprehensive evaluation to determine if the student can be properly identified as having an educational disability that requires special educational services. An alternative is consideration under Section 504* of modifications of program within the building resources for students with impairments not severe enough to qualify as educationally disabled.

6. Staff should be cautioned that not all behavior problems are due to educational disabilities. In these cases, parents shall be referred by the principal and/or member of the staff to our Family Support Center, other mental health professionals and community agencies that can intervene in family-based problems that deal with conduct disorders and social deviance.

* See separate manual on 504 guidelines available in each building and the district Student Services Office

Dissemination of This Code

The board will work through administration to ensure that the community is aware of this code of conduct by:

1. Providing copies of a summary of the code to all students at a general assembly held at the beginning of each school year.
2. Having copies of the code available to all parents for review at the beginning of each school year.
3. Mailing a summary of the code of conduct to all parents of district students before the beginning of the school year and making this summary available later upon request.
4. Including summaries in school calendar, parent handbook and student handbook.
5. Providing all current teachers and other staff members with a copy of the code and a copy of any amendments to the code as soon as practicable after adoption.
6. Providing new employees with a copy of the current code of conduct when they are first hired.
7. Making copies of the code available in every building for review by students, parents and other community members.

In-Service of Staff

The superintendent will sponsor an in-service education program for all district staff members to ensure the effective implementation of the code of conduct. 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.

Annual Review

The Board of Education 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 this code. The committee will be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

An Ad Hoc Committee of the above representatives was responsible for the initial development of this manual and subsequent major revisions. Thereafter, the office of Student Services in cooperation with other key staff will make recommendations to the Board of Education for revisions based on suggestions from building committees, new laws and regulations and board policies that affect student conduct and discipline. Major revisions will be undertaken by a representative advisory committee.

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 code of conduct and any amendments to it will be filed with the Commissioner no later than 30 days after adoption.

NYS Commissioner's Regulations, Section 100.2 (1)
NYS Education law, Section 2801
NYS Education law, Section 2801

