

**Introduction**

The Board of Education (the "Board") of the Commack UFSD (the "District") 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 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 District adopts this Code of Conduct (the "Code"). This document will be reviewed on a periodic basis. Unless otherwise indicated, this Code applies to all students, school personnel, parents and visitors while on school property or off-campus. Discrimination, harassment, hazing or bullying that takes place at off-campus locations, which can be reasonably expected to materially and substantially disrupt the educational process of the school environment or impinge on the rights of other students, may be subject to disciplinary consequences.

**Definitions**

For purposes of this Code, the following definitions apply:

- a. Bullying is unwanted, aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or is reasonably likely to be repeated, over time. Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally and excluding someone from a group on purpose. Bullying can occur both during school hours and outside of the school day. Bullying creates a hostile environment by conduct, threats, intimidation, or abuse, including cyberbullying, that: 1) has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or 2. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; 3. reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or 4. occurs off school property and creates or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation, or abuse might reach school property.
- b. For the purpose of this definition, the terms "threats, intimidation or abuse" shall include verbal and non-verbal actions.
- c. "Cyberbullying" means bullying as defined above, through any form of electronic communication.
- d. "Discrimination" is the act of denying rights, benefits, justice, equitable treatment or access to facilities available to all others, to an individual or group of people because of the group, class or category to which that person belongs.
- e. "Disruptive student" means an elementary or secondary student under the age of 21 who substantially interrupts the educational process or substantially interferes with the teacher's authority over the classroom and/or the learning of other students. When a nexus is established between off-campus behavior that compromises the normal operation of the school building, the student is considered disruptive.
- f. "Employee" means any person receiving compensation from a school district or employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, and consistent with the provisions of such title for the provision of services to such district, its students or employees, directly or through contract, whereby such services performed by such person involve direct student contact (N.Y. Education Law § 1125.3).

- g. "Gender" means actual or perceived sex, and a person's gender identity or expression (N.Y. Education Law § 11.6).
- h. "Gender Identity" is one's self-conception as being male or female, as distinguished from actual biological sex or sex assigned at birth.
- i. "Gender Expression" is the manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice or mannerisms.
- j. "Harassment" means the creation of a hostile environment by conduct or by verbal threats, intimidation or abuse that has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional or physical well-being; or conduct, verbal threats, intimidation or abuse that reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety; such conduct, verbal threats, intimidation or abuse includes but is not limited to conduct, verbal threats, intimidation or abuse based on a person's actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender (identity or expression) or sex (N.Y. Education Law § 11.7).
- k. "Hazing" is an induction, initiation or membership process involving harassment which produces public humiliation, physical or emotional discomfort, bodily injury or public ridicule or creates a situation where public humiliation, physical or emotional discomfort, bodily injury or ridicule is likely to occur.
- l. "Parent" means parent, guardian or person in parental relation to a student.
- m. "School Bus" means every motor vehicle: 1. owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities, or, 2. privately owned and operated-for-compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities (N.Y. Vehicle and Traffic Law §142).
- n. "School function" means any school-sponsored extra-curricular event or activity.
- o. "School property" means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, or in or on a school bus, as defined in Vehicle and Traffic Law §142.
- p. "Sexual Orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality (N.Y. Education Law § 11.5).
- q. "Violent student" means a student under the age of 21 who: 1. Commits an act of violence upon a school employee, or attempts to do so. 2. Commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function, or attempts to do so. 3. Possesses, while on school property or at a school function, a weapon. 4. Displays, while on school property or at a school function, what appears to be a weapon. 5. Threatens to use a weapon or threatens to perform bodily harm, while on school property or at a school function. 6. Knowingly and intentionally damages or destroys the personal property of any school employee or any person lawfully on school property or at a school function. 7. Knowingly and intentionally damages or destroys school District property: e.g. vandalism.
- r. "Weapon" means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, 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 physical injury or death.

## **Student Rights and Responsibilities**

### **Student Rights**

The District is committed to safeguarding the rights given to all students under state and federal law. In addition, to promote a safe, healthy, orderly and civil school environment, all District students have the right to: a. Take part in all District activities on an equal basis in accordance with the provisions of the New York State Dignity for All Students Act (DASA). b. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty. c. Access school rules and, when necessary, receive an explanation of those rules from school personnel. d. Students who make a complaint or participate in the investigation of a complaint in conformity with state law and district policies, who have acted reasonably and in good faith, have the right to be free from retaliation of any kind.

The Dignity Act states that no student shall be subjected to harassment or discrimination by employees or students on school property or at a school function based on their actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender, or sex.

The Dignity Act amended Section 801-a of New York State Education Law regarding instruction in civility, citizenship and character education by expanding the concepts of tolerance, respect for others, and dignity.

The Dignity Act also amended Section 2801 of the Education Law, instructing Boards of Education to include language in the Codes of Conduct to comply with the Dignity Act. (Source: New York Center for School Safety)

The Commack Schools believes that no student shall be subjected to harassment, intimidation, discrimination or bullying by any school employee or student. All forms of harassment, intimidation, discrimination or bullying are strictly prohibited and will not be tolerated on school property and at school functions.

The Dignity Act prohibits any discrimination based on actual or perceived characteristics. Individuals in Public Schools in New York State are protected from discrimination, harassment and persecution on the basis of actual or perceived: a. Race, b. Color, c. Weight, d. National Origin, e. Ethnic Group, f. Religion, g. Religious practice, h. Sex, i. Gender, j. Sexual Orientation, k. Disability.

The Commack Schools are committed to providing an environment for all students, employees, volunteers and other stakeholders free from intimidation, harassment, bullying, cyberbullying, and retaliation, including, but not limited to, electronic, written, oral or physical acts, either direct or indirect, when such an act: a. has or would have the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, emotional and/or physical well-being; or b. reasonably causes or would reasonably be expected to cause a student to fear for his or her physical safety. Such conduct shall include, but is not limited to, threats, intimidation or abuse.

This commitment is an integral part of our comprehensive efforts to promote learning, and to prevent and eliminate all forms of harassment, intimidation, bullying and other harmful and disruptive behavior that can impede the learning process.

The Commack Schools will not tolerate any unlawful or disruptive behavior, including any form of bullying, cyberbullying, retaliation, or harassment in our school buildings, on school grounds, or in school-related activities. We will investigate promptly all reports and complaints of bullying, cyberbullying, retaliation, and/or harassment and take prompt action to end that behavior and restore the student's sense of safety. We will support this commitment in all aspects of our school community, including within curricula, instructional programs, staff development, and extracurricular activities.

### **Student Responsibilities**

All District students have the responsibility to:

- a. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to self, other persons and to property.
- b. Be familiar with and abide by all District policies, rules and regulations dealing with student conduct including, but not limited to the Code of Conduct and DASA.

- c. Report when others engage in behaviors that violate the Code of Conduct.
- d. Attend school every day unless they are legally excused and be in class, on time, and prepared to learn.
- e. Work to the best of their ability in all academic and extracurricular pursuits and strive toward their highest level of achievement possible.
- f. React to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
- g. Work to develop mechanisms to control their anger.
- h. Ask questions when they do not understand.
- i. Seek help in solving problems.
- j. Dress appropriately for school and school functions.
- k. Accept responsibility for their actions.
- l. Conduct themselves as representatives of the District when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
- m. Be forthcoming with information concerning violations of the Code, or threats against the school, staff or students.
- n. Report to school personnel when feeling threatened or unsafe.
- o. Adhere to existing school policies related to electronic devices.

### **Essential Partners**

#### **A. Parents**

All parents are expected to:

- a. Recognize that the education of their child(ren) is a joint responsibility of the parents and the school community.
- b. Ensure their children attend school regularly, on time, and ready to participate and learn.
- c. Ensure absences are excused.
- d. Insist their children be dressed and groomed in a manner consistent with the student dress code.
- e. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
- f. Know school rules and help their children understand them.
- g. Convey to their children a supportive attitude toward education and the District.
- h. Build good relationships with school staff and other children.
- i. Help their children deal effectively with peer pressure and stress from school.
- j. Inform school officials of changes in the home situation that may affect student conduct or performance.
- k. Provide a place for study and ensure homework assignments are completed.
- l. Communicate information concerning violations of the Code.

#### **B. District Employees**

All District Employees are expected to:

- a. Maintain a climate of mutual respect and dignity.
- b. Be forthcoming with information concerning violations of the Code.
- c. Dress appropriately for school and school functions.
- d. Have social media contact with students solely for educational and co-curricular purposes.

#### **C. Teachers**

In addition to the expectations found above in Paragraph B of this Section, all District teachers are expected to:

- a. Maintain a climate that will strengthen students' self-concept and promote confidence to learn.
- b. Be prepared to teach.
- c. Demonstrate interest in teaching and concern for student achievement.
- d. Know school policies and rules, and enforce them in a fair and consistent manner.
- e. Communicate to students and parents:
  1. Course objectives and requirements

2. Marking/grading procedures
3. Assignment deadlines
4. Expectations for students
5. Classroom discipline plan.

f. Communicate regularly with students, parents and other teachers concerning growth and achievement.

g. Be fully invested in the learning experience with their students.

h. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any students in accordance with district policies and regulations.

D. School Counselors/Social Workers/School Psychologists

In addition to the expectations found above in Paragraph B of this Section, all School Counselors/Social Workers/School Psychologists are expected to:

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

b. Initiate teacher/student/counselor conferences and parent/teacher/student/counselor conferences, as necessary, as a way to resolve problems.

c. Regularly review with students their educational progress and career plans.

d. Provide information to assist students with career planning.

e. Encourage students to benefit from the curriculum and extracurricular programs.

f. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any students in accordance with District policies and regulations.

E. Principals/Building Administrators

In addition to the expectations found above in Paragraph B of this Section, all Principals/Building Administrators are expected to:

a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.

b. Ensure that students and staff have the opportunity to communicate regularly with the Principal and approach the Principal for redress of grievances.

c. Evaluate on a regular basis all instructional programs.

d. Support the development of and student participation in appropriate extracurricular activities.

e. Be responsible for enforcing the Code and ensuring that all cases are resolved promptly and fairly.

f. Be forthcoming with information concerning violations of the Code.

g. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any students in accordance with District policies and regulations.

F. Superintendent

In addition to the expectations found above in Paragraph B of this Section, the Superintendent is expected to:

a. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.

b. Review with District Administrators the policies of the Board of Education and state and federal laws relating to school operations and management.

c. Inform the Board about educational trends relating to student discipline.

d. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.

e. Work with District Administrators in enforcing the Code and ensuring that all cases are resolved promptly and fairly.

f. Ensure the code is available and easily accessible to all students.

g. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any students in accordance with District policies and regulations.

G. Board of Education

The Board of Education is expected to:

- a. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a Code that clearly defines expectations for the conduct of students, District personnel and visitors on school property and at school functions.
- b. Review and adopt at least annually the District's Code to evaluate the Code's effectiveness and the fairness and consistency of its implementation.
- c. Lead by example by conducting Board meetings in a professional, respectful and courteous manner.
- d. Be forthcoming with information concerning violations of the Code. If an individual board member becomes aware of information concerning a violation of the Code, he or she will report such violation to the Principal of the school building where the violation took place.
- e. Address issues of harassment or any situation that threatens the emotional or physical health or safety of any students in accordance with District policies and regulations.

#### **Student Dress Code**

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

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

- a. Be safe, appropriate and not disrupt or interfere with the educational process.
- b. Reflect that extremely brief garments, strapless garments, see-through garments and plunging neck lines, front and/or back, are not appropriate.
- c. Ensure that underwear is completely covered with outer clothing.
- d. Shall cover midriff.
- e. Include footwear at all times. Footwear that is a safety hazard will not be allowed.
- f. Not include the wearing of hats in the classroom, except at building level discretion, or for a medical or religious purpose. Hoods and sunglasses are prohibited in the building.
- g. Not include or imply items that are vulgar, obscene, or libelous or that denigrate others on account of race, color, religion, creed, national origin, gender, sexual orientation or disability.
- h. Not promote, endorse or display alcohol, tobacco or illegal drugs and/or encourage other illegal or violent activities.

Each building Principal or his or her designee shall be responsible for informing all students and their parents of the student dress code at the beginning of the school year and any revisions to the dress code made during the school year.

Students who violate the student dress code shall be required to modify their appearance by covering or removing the offending item and, if necessary or practical, replacing it with an acceptable item. Any student who refuses to do so shall be subject to discipline, up to and including suspension. Any student who repeatedly fails to comply with the dress code shall be subject to further discipline, up to and including suspension.

#### **Prohibited Student Conduct**

The Board of Education expects all students to conduct themselves in an appropriate and civil manner, with proper regard for the rights and welfare of other students, District personnel and other members of the school community, and for the care of school facilities and equipment.

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 specific and clear its expectations for student conduct while students are on school property or engaged in a school function. 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 choose not to accept responsibility for their own behavior and who violate this Code will be required to accept the penalties or consequences for their conduct.

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

a. Engage in conduct that is disorderly. Examples of disorderly conduct include but are not limited to:

1. Running in hallways.
2. Making unreasonable noise.
3. Using gestures or language that is profane, lewd, vulgar or abusive.
4. Obstructing vehicular or pedestrian traffic.
5. Engaging in any willful act, which disrupts the normal operation of the school community.
6. Encouraging others to engage in any willful act, which disrupts the normal operation of the school community, including but not limited to serving as an active bystander.
7. Trespassing. Students are not permitted on school premises, in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building.
8. Misusing computer/electronic communications 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.
9. Possessing or using laser pointers, shocking devices or other devices that may cause disruption or danger to others.
10. Engaging in and encouraging electronic cyberbullying, such as inappropriate postings on social media sites, inappropriate text messages or any other electronic communication that may present a disruption to the normal operation of the school.
11. Engage in bullying.

b. Engage in conduct that is insubordinate or disruptive. Examples of insubordinate or disruptive conduct include but are not limited to: 1. Failing to comply with the reasonable directions of teachers, school administrators or other school employees in charge of students, or otherwise demonstrating disrespect. 2. Lateness for, missing or leaving school without permission. 3. Skipping detention or internal suspension.

c. Engage in conduct that is violent. Examples of violent conduct include but are not limited to:

1. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon a teacher, administrator or other school employee or attempting to do so.
2. Committing an act of violence (such as hitting, kicking, punching, and scratching) upon another student or any other person lawfully on school property or attempting 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 what appears to be a weapon.
5. Threatening to use any object to cause bodily harm.
6. Intentionally damaging or destroying the personal property of a student, teacher, administrator, other District employee or any person lawfully on school property. Acts of damage include graffiti and arson.
7. Intentionally damaging or destroying school District property.

d. Engage in any conduct that endangers the safety, morals, health or welfare of self or others. Examples of such conduct include but are not limited to:

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

5. Harassment, which includes a sufficiently severe action or a persistent, pervasive 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.
  6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm.
  7. 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 on campus or off school premises.
  8. Cyberbullying, including, but not limited to, the use of e-mail, instant message, blogs, chat rooms, pagers, cell phones, and gaming systems, to deliberately harass, threaten or intimidate others.
  9. Selling, using or possessing obscene material in print or digital media.
  10. Using vulgar or abusive language.
  11. Refusing to allow a search of one's person or belongings when reasonable suspicion exists to believe that the search will result in evidence that the student violated this Code.
  12. Gambling (including, but not limited to, online).
  13. Indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
  14. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
  15. Participating in, watching, recording or electronically transmitting any inappropriate content, including, but not limited to, sexting.
  16. Retaliation against those who report or participate in the investigation of an incident in conformity with state law and District policies.
  17. Subjecting students, school personnel or any other person lawfully on school property or attending a school function to danger by recklessly engaging in conduct which creates a substantial risk of physical injury.
  18. Possession of ammunition.
- e. Engage in conduct that includes the use of alcohol, tobacco, drugs, and other substances. Examples of such conduct include but are not limited to:
1. Smoking and/or possessing a cigarette, electronic cigarette, vape pen, cigar or pipe or using chewing or smokeless tobacco or any other nicotine related product.
  2. Possessing, consuming, selling, distributing or exchanging alcoholic beverages or illegal substances, or being under the influence of either. "Illegal substances" include, but are not limited to, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, prescription drugs, synthetic cannabinoids, steroids, look-alike drugs, and any substances commonly referred to as "designer drugs," other than in accordance with the District's procedures for Administration of Prescription Drugs in school.
  3. Possessing, selling, or using any drug paraphernalia.
  4. Inappropriately using or the unauthorized possession of prescription and over-the-counter drugs. Please refer to the Health Office guidelines regarding prescription use.
- 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, fighting, throwing objects, or obstructing the aisle will not be tolerated.
- g. Engage in any form of academic misconduct.
- Examples of academic misconduct include, but are not limited to:
1. Plagiarism.
  2. Cheating.
  3. Copying.
  4. Accessing records.



5. Altering records.
  6. Assisting another student in any of the above actions.
- h. Inappropriate use of technology/social media. Examples of inappropriate use include but are not limited to:
1. Use of any recording device including, but not limited to, cell phones, drones, GoPro's, etc. to photograph, create, or manipulate an audio or video recording on school property, at a school event or on a school bus where such conduct would otherwise violate the Code of Conduct.
  2. Taking or manipulating photographs or video or audio of any school personnel without prior permission.
  3. Sending, posting or otherwise distributing a photograph, video or audio recording made on school property, at a school event or on a school bus where such conduct would otherwise violate the Code
  4. Use of technology, including but not limited to e-mail, instant message, blogs, chat rooms, cell phones, websites, internet and gaming systems, to deliberately harass, threaten or intimidate others or create a disruption to the operation of the school.
  5. Sending, posting or otherwise distributing suggestive, nude or semi-nude photographs.
  6. Any violation of specific age-appropriate policies established by each school.
  7. Any unauthorized use of the district logo, name, letterhead, or communication system.
  8. Use of headphones that interfere with the student's ability to hear verbal directives, alarms, and warnings is prohibited.

#### **Reporting Violations**

All parties are expected to promptly report violations of the Code to a teacher, school counselor, the building Principal or his or her designee. Any person observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall immediately report this information to a teacher, the Deans' office, the building Principal, the Principal's designee or the Superintendent.

All District staff members that are authorized to impose disciplinary sanctions are expected to do so in a prompt, fair and lawful manner. District staff members that are not authorized to impose disciplinary sanctions are expected to promptly report violations of the Code 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. Any weapon, alcohol or illegal substance found shall be confiscated immediately, if possible. Such action will be followed by notification to the parent of the student involved and the appropriate disciplinary sanction if warranted, which may include permanent suspension and referral for prosecution. Administration may contact law enforcement (police) at their discretion. 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 same day as the telephone call is made. The notification must identify the student and explain the conduct that violated the Code and constituted a crime.

#### **Disciplinary Penalties, Procedures and Referrals**

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.

Disciplinary action, when necessary, will be firm, fair and consistent so as to be the most effective in changing student behavior. If a student is found responsible for a violation of the Code, the disciplinary penalties will be determined in light of the following:

- a. The student's age/grade.
- b. The nature of the offense and the circumstances which led to the offense.

- c. The student's prior disciplinary record.
- d. The effectiveness of other forms of discipline.
- e. Information from parents, teachers and/or others, as appropriate
- f. Other extenuating circumstances.

For students with disabilities or for students presumed to have a disability, refer to section X in this policy regarding discipline procedures.

#### Penalties

Students who are found to have violated the District's Code of Conduct may be subject to the following penalties, either alone or in combination. The school personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

- a. Oral warning – any member of the District staff.
- b. Written warning – bus drivers, hall and lunch monitors, coaches, school counselors, teachers, building administrators such as Principal and Assistant Principals, and Superintendent
- c. Written notification to parent – bus driver, hall and lunch monitors, coaches, guidance counselors, teachers, principal, Superintendent.
- d. Detention – teachers, Principal, Superintendent.
- e. Sending a student home—building administration, Superintendent.
- f. Suspension from transportation – Principal, Assistant Superintendent, Superintendent.
- g. Suspension from athletic participation – coaches, athletic director, Principal, Superintendent, or Superintendent's designee.
- h. Suspension from social or extracurricular activities— activity advisor, Principal, Superintendent, or Superintendent's designee.
- i. Suspension of other privileges – Principal, Superintendent, or Superintendent's designee.
- j. In-school suspension or full-day detention—Principal, Superintendent or designee.
- k. Removal from classroom by teacher – teachers, Principal or designee.
- l. Short-term (five days or fewer) suspension from school – Principal, Superintendent, Board of Education.
- m. Long-term (more than five days) suspension from school, subject to a Superintendent's hearing – Principal, Superintendent, Board of Education.
- n. Permanent suspension from school – Superintendent, Board of Education.

The District reserves the right to seek restitution, in accordance with the law, from the parent/guardian and/or student for any costs or damages which had been incurred by the District as a result of violations of this Code.

#### Procedures

The amount of due process a student is entitled to receive before a penalty is imposed depends on the penalty. 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.

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 penalties and additional rights are explained below.

- a. 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 and communicated to the parent.
- b. Suspension from Transportation: If a student does not conduct himself or 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.

c. Suspension from Athletic Participation, Extracurricular 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 a reasonable opportunity for an **informal conference with the District Director of Health, Physical Education and Recreation** imposing the suspension to discuss the conduct and the penalty involved.

d. Suspension from BOCES and Other Outside Activities: BOCES activities, such as field trips and other activities outside the building itself, are considered an extension of the school program. Therefore, an infraction handled at BOCES is to be considered as an act within the School District itself. A student who is ineligible to attend a District school on a given day may also be ineligible to attend BOCES classes. The decision rests with the Superintendent or his or her designee.

e. In-School Academic Reassignment: The Board recognizes the school must balance the need of students to attend school and the need for order in the classroom to establish an environment conducive to learning. As such, the Board authorizes the Principal and the Superintendent to place students who would otherwise be suspended from school as the result of a violation in "academic reassignment." The academic reassignment teacher will be a certified teacher. A student subjected to an academic reassignment 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 academic reassignment to discuss the conduct and the penalty involved.

f. 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: (1) short-term "time out" in an elementary classroom or in an administrator's office; (2) sending a student to the internal suspension room; (3) sending a student to the Principal's office for the remainder of the class time only; (4) sending a student to a school 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, 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 student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24 hours.

The teacher must complete a District-established disciplinary 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/or Dean of Students, and arrange to meet with the Principal or designee as soon as possible, ensuring that the Principal receives timely notice of the teacher's removal decision. 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 teacher who initiated the removal shall attend the informal meeting. If at the informal meeting the student denies the charges, the Principal or the Principal's designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. The informal meeting must be held within 48-hours of the student's removal.

The timing of the informal meeting may be extended by mutual agreement of the parent and Principal. The Principal or the Principal's designee may overturn the removal of the student from class if the Principal finds any one of the following:

1. The charges against the student are not supported by substantial evidence.
2. The student's removal is otherwise in violation of law, including the District's Code.
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 overturn a removal at any point between receiving the referral form issued by the teacher and the close of business on the day following the 48-hour period for the informal conference, 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. Both the teacher and the Principal will maintain a copy of the completed log relating to the removal. This log will be on a District-provided form. The Principal must keep a log of all removals of students from class.

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement. Accordingly, no teacher may remove a student with a disability from his or her class until he or she has verified with the Principal or the chairperson of the Committee on Special Education that the removal will not violate the student's rights under state or federal law or regulation.

g. 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. 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.

#### Short-Term (5 days or fewer) 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 fewer 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 30 calendar days, unless they can show extraordinary circumstances precluding them from doing so. The Superintendent shall issue a written decision regarding the appeal within 30 calendar 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 30 calendar days of the date of the Superintendents' 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 calendar days of the decision.

#### 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, which will make its decision based solely upon the record before it. All appeals to the Board must be in writing and submitted to the District Clerk within 30 calendar 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 calendar days of the decision.

#### Permanent Suspension

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

#### Minimum Periods of Suspension

##### a. Students who bring a weapon to school

Any student, other than a student with a disability, found guilty of bringing a weapon onto school property will be subject to suspension from school for at least one calendar year. Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The Superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the penalty, the Superintendent may consider the following:

1. The student's age and grade.

2. The student's prior disciplinary record.
3. The Superintendent's belief that other forms of discipline may be more effective.
4. Input from parents, teachers and/or others.
5. Other extenuating circumstances.

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

b. Students who commit violent acts other than bringing a weapon to school:

Any student, other than a student with a disability, who is found to have committed a violent act, other than bringing a weapon onto school property, 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.

c. Students who are repeatedly substantially disruptive of the educational process or repeatedly substantially interfere with the teacher's authority in the classroom Any student, other than a student with a disability, who repeatedly is substantially disruptive of the educational process or who 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, "repeatedly is substantially disruptive" means engaging in conduct that results in the student's being removed from the classroom by teacher(s) pursuant to Education Law §3214(3-a) and this 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.

#### Referrals

a. Counseling

The Counseling Department and/or Pupil Personnel Services shall handle all referrals of students to counseling.

b. PINS Petitions

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

1. Being habitually truant and not attending school as required by Part I of Article 65 of the Education Law.

2. Engaging in an ongoing or continual course of conduct which makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.

3. Knowingly and unlawfully possesses marijuana (or any other drug) in violation of Penal Law § 221.05. A single violation of § 221.05 will be a sufficient basis for filing a PINS petition.

c. Juvenile Delinquents and Juvenile Offenders: The Superintendent is required to refer the following students to the County Attorney for a juvenile delinquency proceeding before the Family Court:

1. Any student under the age of 16 who is found to have brought a weapon to school, or

2. Any student 14 or 15 years old who qualifies for juvenile offender status under the Criminal Procedure Law §1.20 (42). The Superintendent is required to refer students age 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

**Alternative Instruction**

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

**Discipline of Students with Disabilities or Students Presumed to have a Disability for Discipline Purposes**

Student with a disability means a student with a disability as defined in section 4401(1) of the Education Law, who has not attained the age of 21 prior to September 1st and who is entitled to attend public schools pursuant to section 3202 of the Education Law and who, because of mental, physical or emotional reasons, has been identified as having a disability and who requires special services and programs approved by the department (Part 200.1 (zz) of Part 200 Regulations of the Commissioner of the State of NY). Student presumed to have a disability for discipline purposes means a student who the school district is deemed to have knowledge was a student with a disability before the behavior that precipitated disciplinary action under the criteria in section 201.5(b) of this Part (Part 201.2 (n) of Part 200 Regulations of the Commissioner of the State of NY).

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 students with disabilities are entitled to certain procedural protections whenever 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.

This affords students with disabilities subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state law and regulations.

**Authorized Suspensions or Removals of Students with Disabilities**

a. For purposes of this section, the following definitions apply:

1. A "disability" means (a) a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques or (b) a record of such an impairment or 9c) a condition regarded by others as such and impairment, provided, however, that in all provisions of this article dealing with employment, the term shall be limited to disabilities which, upon the provision or reasonable accommodations, do not prevent the complainant from performing in a reasonable manner the activities involved in the job or occupation sought or held. (N.Y. Executive Law § 292.21).

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

3. A "removal" means a removal for disciplinary reasons from the student's current educational placement other than a suspension and change in placement to an interim alternative educational setting (IAES) ordered by an impartial hearing officer because the student poses a risk of harm to himself or herself or others.

4. An "IAES" means a temporary educational placement for a period of up to 45 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.

b. School personnel may order the suspension or removal of a student with a disability from his or her current educational placement as follows:

1. The Board, the District (BOCES) Superintendent of schools or a building Principal may order the placement of a student with a disability into an IAES, another setting or suspension for a period not to exceed five consecutive school days and not to exceed the amount of time a non-disabled student would be subject to suspension for the same behavior.

2. The Superintendent may order the placement of a student with a disability into an IAES, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed under subparagraph (a) above for the same behavior, if the Superintendent determines that the student has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non-disabled students would be subject to suspension for the same behavior.

3. The Superintendent may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.

4. The Superintendent may order placement of a student with a disability in an IAES to be determined by the Committee on Special Education (CSE) for the same amount of time that a student without a disability would be subject to discipline, but not more than 45 days if the student: (i) carries or possesses a weapon to school or to a school function; (ii) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function; or (iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the District. Serious bodily harm has been defined as a substantial risk of death, extreme physical pain, or protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty."

a. "Weapon" means the same as "dangerous weapon" under 18 U.S.C. § 930(g)(w) which includes "a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except...[for] a pocket knife with a blade of less than 2 1/2 inches in length."

b. "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.

c. "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.

c. 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 days at a time, if maintaining the student in his or her current educational placement poses a risk of harm to the student or others.

#### Change of Placement Rule

a. 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 and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

b. School personnel may not suspend or remove a student with disabilities if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal. However, the District may impose a suspension or removal, which would otherwise result in a disciplinary change in placement, based on a pattern of suspensions or removals if the CSE has determined that the behavior was not a manifestation of the student's disability, or the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances.

#### Special Rules Regarding the Suspension or Removal of Students with Disabilities

a. The District's Committee on Special Education shall:

1. Conduct functional behavioral assessments to determine why a student engages in a particular behavior, and develop or review behavioral intervention plans 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 a 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 school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.

2. Conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to disciplinary action whenever a decision is made to place a student in an IAES either for misconduct involving weapons, illegal drugs or controlled substances because maintaining the student in his current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension that constitutes a disciplinary change in placement.

- b. The parent 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.
1. 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.
  2. A student will not be considered a student presumed to have a disability for discipline purposes if, upon receipt of information supporting a claim that the District had knowledge the student was a student with a disability, the District either:
    - a) conducted an individual evaluation and determined that the student is not a student with a disability, or
    - b) determined that an evaluation was not necessary and provided notice to the parents of such determination, in the manner required by applicable law and regulations.
- 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.
- c. The District shall provide parents with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his or her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement. The procedural safeguards notice prescribed by the Commissioner shall accompany the notice of disciplinary removal.
- d. The parents of a student with disabilities 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.
- e. Superintendent hearings on disciplinary charges against students with disabilities subject to a suspension of more than five school days shall be bifurcated into a guilt phase and a penalty phase in accordance with the procedures set forth in the Commissioner's regulations incorporated into this Code. 6.

- f. The removal of a student with disabilities other than a suspension or 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 such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless the CSE has determined that the behavior is not a manifestation of the student's disability.
- unless the CSE has determined that the behavior is not a manifestation of the student's disability.
- g. 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.

Expedited Due Process Hearings

- a. An expedited due process hearing shall be conducted in the manner specified by the Commissioner's regulations incorporated into this Code, if:

1. 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 maintain that it is dangerous for the student to be in his or her current educational placement, or during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings.

2. The parent requests such a hearing from a determination that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding placement, including but not limited to any decision to place the student in an IAES.

a. If school personnel propose to change the student's placement after expiration of an IAES placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the placement prior to removal to the IAES, except where the student is again placed in an IAES.

b. During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES for behavior involving weapons, illegal drugs or controlled substances, or on grounds of dangerousness, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, 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.

- b. An expedited due process hearing shall be completed within 15 business days of receipt of the request for a hearing. Although the impartial hearing officer may grant specific extensions of such time period, he or she must mail a written decision to the District and the parents within five business days after the last hearing date, and in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extensions.

Referral to law enforcement and judicial authorities

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

a. 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.

b. 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 reasonably be used, reasonable physical force may be used to:

- a. Protect oneself, another student, teacher or any person from physical injury.
- b. Protect the property of the school or others.

c. 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 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 Commissioner's regulations.

#### **Student Searches and Interrogations**

The Board of Education is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary penalty on a student may question a student about an alleged violation of law or the District Code. 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. In addition, the Board authorizes the Superintendent, building Principals, building Principal's designee, the school nurse and District security officials 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.

To the extent that the circumstances allow, school personnel will attempt to notify the parent prior to a search.

An authorized school official may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the school official has a legitimate reason for the very limited search. An authorized school official may search a student or the student's belongings, such as but not limited to phones, electronics and backpacks, based upon information received from a reliable informant. Individuals, other than the District employees, will be considered reliable informants if they have previously supplied information that was accurate and verified, or they make an admission against their own interest, or they provide the same information that is received independently from other sources, or they appear to be credible and the information they are communicating relates to an immediate threat to safety. District employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.

Before searching a student or the student's belongings, such as but not limited to phones, electronics and backpacks, the authorized school official should attempt to get the student to admit that he or she possesses physical evidence that he/she violated the law or the District Code, or get the student to voluntarily consent to the search. Searches will be limited to the extent necessary to locate the evidence sought.

Whenever possible searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched. Whenever possible, searches will be conducted by a staff member of the same sex of which the student identifies and, whenever possible, another staff member will be present as a witness.

#### Student Lockers, Desks and other School Storage Places

The rules in this regarding searches of students and their belongings do not apply to student lockers, desks and other school storage places. Students have no reasonable expectation of privacy with respect to these places and school officials retain complete control over them. This means that student lockers, desks and other school storage places 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 the search shall be responsible for maintaining a written record including the following information about each search:

1. Name, age and grade of student searched.
2. Reasons for the search.
3. Name of any informant(s).
4. Purpose of search (that is, what item(s) were being sought).
5. Type and scope of search.

6. Person conducting search and his or her title and position.
7. Witnesses, if any, to the search.
8. Time and location of search.
9. Results of search (that is, what item(s) were found).
10. Disposition of items found.
11. 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, or any evidence pursuant to an ongoing investigation, including but not limited to electronic recording devices. The Principal or his or her designee shall clearly label each item taken from the student and retain control of the item(s), until the item(s) is turned over to the police. The Principal or his or her designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

#### Police Involvement in Searches and Interrogations of Students

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

- a. A search or an arrest warrant; or
- b. Probable cause to believe a crime has been committed on school property or at a school function; or
- c. Been invited by school officials.

Before police officials are permitted to question or search any student, the building Principal or his or her designee shall first try to notify the student's parent to give the parent the opportunity to be present during the police questioning or search. If the student's parent cannot be contacted prior to the police questioning or search, the questioning or search shall not be conducted. The Principal or designee will also be present during any police questioning or search of a student on school property or at a school function. Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school. This means:

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

#### 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 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 verify 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 identified gender.

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 not 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:

- a. Anyone who is not a regular staff member or student of the school will be considered a visitor.
- b. All visitors traveling beyond the security desk will be processed using the District's visitor management system which will, upon presentation of a NYS governmental photo identification, produce a visitor pass and photo of the individual. The visitor is responsible to wear the pass for identification for the duration of their visit. Visitors must, upon exiting the facility, return the pass to the security desk at the main entrance. Visitors who cannot present a NYS driver's license or NYS DMV identification card are asked to present a NYS photo identification such as a U.S or passport of another country or out-of-state driver's license. Visitors will be admitted with one of these documents and will also be added to the visitor management system.
- c. Visitors attending school functions outside of the school day (or when school is not in session) that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
- d. Visitors must understand that teachers will not take class time to discuss individual matters.
- e. 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.
- f. All visitors are expected to abide by the rules for public conduct on school property contained in this Code.

### **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 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.

#### Prohibited Conduct

No person, either alone or with others, shall:

- a. Intentionally injure any person or threaten to do so.
- b. Intentionally damage or destroy District property or the personal property of a teacher, administrator, other District employee or any person lawfully on school property. Acts of damage include graffiti and arson.
- c. Disrupt the orderly conduct of classes, school programs or other school activities.
- d. 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.
- e. Intimidate or harass any person, or discriminate against any person on the basis of race, color, creed, national origin, religion, age, gender, sexual orientation or disability.
- f. Enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed.
- g. Obstruct the free movement of any person in any place to which this applies.
- h. Violate the traffic laws, parking regulations or other restrictions on vehicles;

- i. 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 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 District.
- j. Loiter on or about school property.
- k. Gamble on school property or at school functions.
- l. Refuse to comply with any reasonable order of identifiable District officials performing their duties.
- m. Willfully incite others to commit any of the acts prohibited by this Code.
- n. Violate any federal or state statute, local ordinance or Board policy while on school property or while at a school function.
- o. Smoke or use an electric cigarette, chewing or smokeless tobacco or any nicotine-related product on school property.
- p. Use profanity or improper language.

Penalties

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

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

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, as described under "Penalties" (section above). In addition, the District reserves its right to pursue a civil or criminal legal action against any person violating the Code of Conduct.

**Dissemination and Review**

Dissemination of Code of Conduct

The Board will work to ensure that the community is aware of this Code by:

- a. Providing a plain-language overview of the Code to all students through agenda books, the school website, the district calendar, and presentations to students. A full copy of this Code will be made available on the website.
- b. Mailing a summary of the Code written in plain language to all parents of District students before the beginning of the school year and making this summary available later upon request.

c. Providing all current teachers and other staff members with access to the Code and a copy of any amendments to the Code as soon as practicable after adoption.

d. Providing all new employees with a copy of the current Code when they are first hired.

e. Making the Code available for review by students, parents and other community members.

The Board will sponsor an in-service education program for all District staff members to ensure the effective implementation of the Code. 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.

The Board of Education will review this Code every year and revise 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 violations. The committee will be made up of representatives of student, teacher, administrator, and parent organizations, school safety personnel and other school personnel.

Before adopting any revisions to the Code, the Board will hold at least one public hearing at which school personnel, parents, students and any other interested party may participate. The Code and any amendments to it will be filed with the Commissioner no later than 30 days after adoption.

**ADOPTED: 7/15/19**