



Student Code of Conduct

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Adopted: July 5, 2001

Revised and Board Approved: August 18, 2005

Board Reviewed and Re-approved: August 10, 2006

Board Reviewed and Re-approved: July 12, 2007

Board Reviewed and Re-approved: July 10, 2008

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STUDENT CODE OF CONDUCT

I. Mission

The mission of the Orange-Ulster Board of Cooperative Educational Services (BOCES) is to serve our component districts and community in the development of continuous learners who will be successful in meeting the challenges of living in our society today and in the future. We will accomplish this mission in a cost-effective manner with a dedicated, skilled, caring staff providing quality educational programs in a safe, nurturing and accessible environment.

II. Introduction

The Orange-Ulster Cooperative Board (“Board”) is committed to providing a safe and orderly school environment where students will receive and staff will deliver quality educational services without disruption or interference. Responsible behavior by students, teachers, other BOCES personnel, parents and other visitors is essential to achieving this goal.

The Orange-Ulster BOCES Programs have a set of expectations for conduct on school property, school functions, and under school supervision. These expectations are based on the principles of civility, mutual respect, citizenship, tolerance, honesty and integrity, which are reflective of industry standards and essential to develop a strong character.

The Board recognizes the expectation and responsibility to educate students for appropriate conduct. Our goal is to clearly define these expectations for acceptable conduct on school property, identify the possible consequences of unacceptable conduct, and to ensure that discipline, when necessary is administered promptly and fairly. To this end, the Board adopts this Student Code of Conduct (“Code”) that addresses the mandates of the Project SAVE legislation of July, 2001.

The Orange-Ulster BOCES employs two full time School Resource Officers (“SRO”), one in the Career & Technical Education Division and the second one in the Special Education Division. The SRO is a pro-active member of the BOCES staff to assist in assuring a safe environment and supporting the Student Code of Conduct.

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

III. Definitions

For purposes of this Code, the following definitions apply.

“Disruptive Student”¹ means a student who substantially interferes with the educational process and/or interferes with the teacher’s authority over the classroom.

“Parent” means the biological, adoptive, or foster parent, guardian or person of record in parental relation to the student.

“School Property”² means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of the Orange-Ulster BOCES Complex and Satellites.

“School Function”³ means any school-sponsored curricular-related event or activity.

“Weapon” means any item or material capable of causing harm or threatening harm by gesture, word, or deed, which can cause serious physical injury or death.⁴

“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.

“Illegal Drugs” means a controlled substance except for those legally possessed or used under the supervision of a licensed healthcare professional or that is legally possessed or used under

any other authority under the Controlled Substances Act or any other federal law.

“Violent Student”⁵ means a student who is considered violent:

1. when on school property or at a school function, commits an act of violence on school personnel, student or visitor.
2. Possesses, displays or threatens the use of a weapon,⁶ bomb, dangerous instrument capable of inflicting physical injury or death.
3. damages or destroys property of staff, student or district.

IV. Student Rights and Responsibilities⁷

A. Student Rights

The Orange-Ulster BOCES Programs are committed to safeguarding the rights given to all students under state and federal law. In addition to those rights, all district students have the right to:

1. a safe, healthy, orderly and civil school environment.
2. learn appropriate behaviors for the school and work environment.
3. take part in all school activities on an equal basis regardless of age, race, religion, color, national origin, sex, sexual orientation or disability.
4. present their version of the relevant events to school personnel authorized to impose a disciplinary consequence.
5. access school rules and, when necessary, receive an explanation of those rules from school personnel.
6. resolve grievances, complaints and concerns in an expeditious, fair and amicable manner, as outlined in the policies against harassment of students (#6550), complaints and grievances by students (#6560), students with disabilities (#6500), as well as career and technical education (#7150).

B. Student Responsibilities

All students have the responsibility to:

1. contribute to the maintenance of a safe and orderly school environment that is conducive to learning.

2. show respect to other persons and property
3. be familiar with and abide by all Orange-Ulster BOCES policies, rules and regulations dealing with student conduct.
4. attend school every day, unless they are legally excused, and to be in class on time, and prepared to learn.
5. work to the best of their ability in all educational and extracurricular pursuits and to strive toward their highest level of achievement.
6. respond to direction given by teachers, administrators and other school personnel in a respectful, positive manner.
7. develop skills to control any inappropriate behavior.
8. ask questions when they do not understand.
9. seek help in resolving problems to avoid disciplinary interventions.
10. dress appropriately for the academic setting (i.e.: sneakers for gym, uniforms for trade classes).
11. acknowledge their actions.
12. conduct themselves as representatives of the Orange-Ulster BOCES programs when participating in or attending school-sponsored extracurricular events, and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.
13. comply with Orange-Ulster BOCES Internet usage and Website policies.

V. Essential Partners⁸

A. Parents

All parents are expected to:

1. recognize that the education of their children is a joint responsibility of the parents, school, and community.
2. send their children to school ready to participate and learn.
3. ensure their children attend school regularly and on time.
4. ensure absences are legitimate and accompanied by a note upon the student's return to school.
5. insist their children be dressed and groomed in a manner consistent with the student dress code.
6. help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.

7. know school rules, their children's responsibilities, and help them to understand their responsibilities.
8. convey to their children a supportive attitude toward education and the Orange-Ulster BOCES programs.
9. foster positive relationships through communication with school personnel.
10. help their children deal effectively with peer pressure.
11. inform school officials of changes in the home situation that may affect student conduct or performance.
12. provide a place for learning and ensure homework assignments are completed.
13. notify school personnel of changes in phone number, address, or emergency contacts.

B. Teachers

All Orange-Ulster BOCES Program Teachers and Support Staff are expected to:

1. maintain a climate of mutual respect and dignity, which will strengthen students' self-concept and promote confidence to learn.
2. be prepared to teach.
3. demonstrate interest in teaching and concern for student achievement.
4. know school policies and rules, and enforce them in a fair and consistent manner.
5. communicate to students and parents:
 - a. course objectives and requirements
 - b. marking/grading procedures
 - c. assignment deadlines
 - d. expectations for students
 - e. classroom discipline plan
 - f. student's rights and responsibilities
6. communicate regularly with students, parents and other teachers concerning growth and achievement.
7. model behavior being taught in the school and occupation.

C. Counselors

All Orange-Ulster BOCES Counselors are expected to:

1. assist students in coping with peer pressure and emerging personal, social and emotional problems.
2. initiate teacher/student/counselor conferences and parent/teacher/student/counselor conferences, as necessary, as a way to resolve problems and achieve desired outcomes.
3. regularly review with students their behavioral and/or educational progress and career plans.
4. assist students as appropriate with career planning/transition plans.
5. encourage students to benefit from the curriculum and extracurricular programs.
6. assist students to prepare and achieve desired outcomes.
7. notify the Principal if a student presents issues that are life threatening to themselves or others.
8. participate in the planning and development of student programs, to enhance and maximize student achievement.
9. comply with policy and procedures regarding the sharing of confidential information.

D. Nurses

All Orange-Ulster BOCES School Nurses and School Nurse Teachers are expected to:

1. participate in the planning and process development of student programs, to enhance and maximize student achievement in their educational plans.
2. provide a respectful and trustworthy environment for students seeking assistance with medical, social, emotional, or environmental issues of life that impact on their ability to learn, or benefit from their school program.
3. communicate and refer to teachers, counselors, and support personnel, information regarding a student, which may designate them as “high risk” for inappropriate or violent behaviors.
4. provide students with health information, and act as a resource regarding personal health related issues, during episodic visits, mandated screenings, and exams.
5. provide a health service program for students that is comprehensive, accessible, and respectful of the students’ confidentiality needs.

6. participate, organize, and assist in the development of State mandated health education curriculum for students, and health education program for faculty and staff.
7. follow established medical regimes from community health care providers, and assist students/families to access follow-up activities, to ensure student success in school.

E. Para Educators

All Orange-Ulster BOCES Para Educators are expected to:

1. assist teachers to maintain a climate of mutual respect and dignity, which will strengthen students' self-concept and promote confidence to learn.
2. demonstrate interest and concern for student achievement.
3. know school policies and rules, and assist in enforcing them in a fair and consistent manner.
4. assist certified staff in supporting the learning environment.
5. model behavior taught in school.

F. Psychiatrist

Orange-Ulster BOCES Psychiatrists are expected to:

1. participate in consultations with principals, teachers, and support staff to promote greater understanding of the student's academic and clinical needs to maximize student's potential.
2. be a resource to staff, as needed, in the development of effective behavioral plans to promote positive student outcomes.
3. comply with the policy and procedures regarding the sharing of confidential information.
4. be an educational resource to staff in promoting a greater understanding of complex mental health issues.

G. School Districts

The local school district will:

1. partner with the staff of Orange-Ulster BOCES to ensure that students' academic and/or vocational programs provide the opportunity for students to reach their maximum potential.

2. provide students with safe transportation to and from the BOCES campus or satellite programs while being available to partner in resolving acute disciplinary issues.
3. be available to meet with BOCES staff and parents to partner in resolving acute disciplinary issues.
4. upon referral, provide BOCES programs with complete academic, medical and psychiatric records (as appropriate) in an effort to assist staff in making programmatic placements to ensure that students have the maximum opportunity to succeed.

H. Administrators

All Orange-Ulster BOCES Administrators are expected to:

1. promote a safe, orderly, and stimulating school environment, supporting active teaching and learning.
2. ensure that students and staff have the opportunity to communicate regularly with the Principal and approach the Principal for redress of grievances.
3. evaluate on a regular basis all instructional programs.
4. support the development of and student participation in appropriate extracurricular activities, and emerging technologies.
5. be responsible for enforcing the Student Code of Conduct and ensuring that all cases are resolved promptly and fairly.

I. Executive Officer

The Executive Officer will:

1. promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. review with administrators the policies of the Board and state and federal laws relating to school operations and management.
3. inform the Board about educational trends relating to school safety and the Student Code of Conduct.
4. work to create instructional programs that promote positive behavior and are sensitive to learner and teacher needs.

5. work with administrators in enforcing the Student Code of Conduct and ensuring that all cases are resolved promptly and fairly.

J. Cooperative Board

The Board will:

1. collaborate with students, teachers, administrators, parent organizations, school safety personnel and other school personnel to develop a Student Code of Conduct that clearly defines expectations for the students, personnel and visitors on school property, at school functions, or under school supervision.
2. adopt and review at least once a year the district's Student Code of Conduct to evaluate the Code's effectiveness and the fairness and consistency of its implementation.

K. School Resource Officers

The Orange-Ulster BOCES contracts with local law enforcement to provide two full time School Resource Officers ("SRO"), one in the Career & Technical Education Division and the second one in the Special Education Division. The SRO is a pro-active partner with the BOCES staff to assist in assuring a safe environment and supporting the Student Code of Conduct.

VI. Student Dress Code⁹

All students are expected to give proper attention to personal hygiene and to dress appropriately and professionally for school and school functions. If a uniform is required for the student in their course of study, then students must be prepared with a clean and neat uniform daily. Students are responsible for acquiring and purchasing school uniforms for their course of study. Financial assistance may be available for extreme hardships. Students and their parents have the primary responsibility for acceptable student dress and appearance. All Orange-Ulster BOCES 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 shall:

1. be safe, appropriate and not disrupt or interfere with the educational process.
2. recognize that extremely short skirts and shorts and brief garments such as tube tops, net tops, halter tops, midriff/cropped tops, spaghetti straps, plunging necklines (front and/or back) and see-through garments are not appropriate.
3. ensure that underwear is completely covered with outer clothing.
4. include appropriate footwear at all times. Approved footwear will be required in certain designated programs. (Footwear that is a safety hazard will not be allowed).
5. **NOT** include the wearing of hats in the classroom except for pre-approved medical or religious purposes.
6. **NOT** include items that are vulgar, obscene, libelous, or that denigrate others with respect to age, color, religion, ancestry, national origin, sex, sexual orientation or disability.
7. **NOT** promote and/or endorse the use of alcohol, tobacco, or illegal drugs and/or encourage other illegal or violent activities.

The Principal shall be responsible for informing 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 meet with the Principal or his/her designee.

VII. Prohibited Student Conduct

The Board expects 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. They are also expected to conduct themselves appropriately with regard to 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. Personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the student's ability to grow in self-discipline and to learn socially acceptable behavior.

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

Students will be subject to progressive disciplinary action, depending upon the severity of the incident. These actions may range from reminders and instruction up to suspension from school, when they:

- A. Engage in conduct that is violent. Examples of violent conduct include but are not limited to:
 - 1. committing or threatening an act of violence (such as hitting, kicking, biting, spitting, punching, hair pulling, and scratching) upon a teacher, administrator, another student or any other person on school property.
 - 2. 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.
 - 3. displaying what appears to be a weapon.
 - 4. threatening to use any weapon.
 - 5. intentionally damaging or destroying the personal property of a teacher, administrator, student, other district employee or any person on school property, including graffiti or arson.
 - 6. intentionally damaging or destroying school property on or off-campus.
 - 7. participating in gang activity/wearing gang related identifying clothing, apparel, or related items.

- B. Engage in conduct that is disruptive. Examples of disruptive conduct include but are not limited to:
 - 1. failing to comply with the lawful directions of teachers, school administrators or other school personnel in charge

of students.

2. being late for school or class.
3. being unprepared for class.
4. inappropriate use of educational materials.
5. throwing objects in class or shop, cafeteria, hallways, or on school grounds.
6. chronic talking.
7. using cellular telephones or other electronic audio or visual devices.

C. Engage in conduct that is insubordinate. Examples of insubordinate conduct include but are not limited to:

1. failing to comply with the lawful directions of teachers, school administrators or other school employees in charge of students.
2. lateness for, missing or leaving school or class without permission.
3. refusing to participate in assigned alternative instruction.

D. 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 language or gestures that are profane, lewd, vulgar, abusive or bullying.
4. obstructing vehicular or pedestrian traffic.
5. engaging in any willful act which disrupts the normal operation of the school community.
6. wandering in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building.
7. driving on campus recklessly.
8. NOT following classroom, shop and pool safety rules.
9. using cellular telephones or other electronic audio or visual devices.

E. Engage in any gesture or written, verbal or physical act (harassment, intimidation or bullying) that takes place on school property or at any school sponsored function that:

1. is motivated by any actual or perceived characteristic such as race, color, religion, ancestry, national origin,

- gender, sexual orientation, gender identity and expression, or mental, physical or sensory disability: or
- 2. by any other distinguishing characteristic: and
- 3. a reasonable person should know, under the circumstances, that the act(s) will have the effect of harming a student or damaging the student's property: or
- 4. whether the communication is initiated on or off school property, where the communication at issue has the effect of insulting or demeaning any student or group of students in such a way as to cause substantial disruption in, or substantial interference with, the orderly operation of the school.

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

- 1. lying to any school personnel.
 - a. not being truthful with school personnel
 - b. withholding information or obstructing any investigation in process
- 2. stealing the property of other students, school personnel or any other person on school property or attending a school function.
- 3. acts of sexual harassment as defined in the district's sexual harassment policy.
- 4. selling, using or possessing obscene material.
- 5. smoking a cigarette, cigar, pipe or using chewing or smokeless tobacco.
- 6. possessing, consuming, selling, distributing or exchanging alcoholic beverages, illegal or controlled substances.
- 7. inappropriately using or sharing prescription and/or over-the-counter drugs.
- 8. initiating false alarms, bomb threats, pulling fire alarms.
- 9. participating in gang activity/wearing gang-related identifying clothing, apparel or related items.

In addition, students will be subject to discipline if they:

G. Engage in misconduct while on school bus. It is crucial for students to behave appropriately while riding on district buses, to ensure their safety and that of the 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 on school property. Students waiting for buses when not on school property are expected to conduct themselves in accordance with the Student Code of Conduct.

H. Engage in any form of academic misconduct. Examples of academic misconduct include but are not limited to:

1. plagiarism
2. cheating

VIII. Reporting Violations of the Code of Conduct

Any student observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall report this information immediately to a teacher, the Principal, or any Orange-Ulster BOCES administrator. Any weapons, alcohol, or illegal substance found shall be confiscated by staff immediately. This will be followed by notifying the parent of the student. The appropriate disciplinary action will be taken up to, and including, suspension and referral for prosecution.

The Principal must notify the appropriate local law enforcement¹⁰ agency of those 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 learns of the violation. The notification may be made by telephone, followed by written notification on the same day as the telephone call is made. The notification must identify the student(s) and explain the conduct that violated the Student Code of Conduct and constitute a crime.

Serious or repeated violations of the Code of Conduct are documented through a discipline referral system (See Appendix A). Staff members complete a "Referral Form" which describes the incident, the nature of the offense and consequences for the behavior. When an incident meets specific requirements (See Appendix B), a Violent and Disruptive Incident Report (VADIR) will be completed. These incidents are reported annually to the New York State Education Department as part of Basic Educational Data System (BEDS) reporting.

IX. Disciplinary Procedures and Penalties

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, reasonable 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 and learn socially acceptable behaviors.

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

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

As a general rule, discipline will be progressive. This means that a student's first violation will usually merit a lighter consequence than subsequent violations.¹¹

A. Consequences

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

1. Verbal warning – teacher.
2. Written warning – teacher or Principal.
3. Verbal notification to a parent – Principal or his/her designee.
4. Written notification to a parent – Principal or his/her designee.

5. Alternative setting for instruction – teachers, clinical or work supervisors, Principal or his/her designee.
6. Suspension from transportation – home school district, Principal or his/her designee.
7. Suspension from extracurricular activities – home school district, Principal or his/her designee.
8. Suspension from parking privileges – Principal or his/her designee.
9. Suspension of other privileges – Principal or his/her designee.
10. Removal from class – teacher.¹²
11. Short-term (five days or less) suspension from school – Principal or his/her designee.
12. Long-term (more than five days) suspension from school – Executive Officer or home school district.
13. Removal from Program - home school district.
14. Permanent suspension from Program – home school district.
15. Referral to law enforcement or judicial authorities - Principal or his/her designee, Executive Officer, or home school district.

B. District Due Process Procedure

In all cases, regardless of the penalty imposed, the school personnel authorized to impose the penalty must let the student know what misconduct the student is alleged to have committed, and must investigate the facts surrounding the alleged misconduct. Students will have an opportunity to present their version of the facts to the school personnel imposing the disciplinary penalty.

The objective of the Orange-Ulster BOCES Due Process Procedure is to resolve problems of misbehavior at the earliest possible level. When statutory due process is not otherwise available, this Due Process Procedure provides an avenue of appeal in the discipline procedure. It should only be utilized when all efforts to resolve the problem on earlier levels have been exhausted. Due process is not denied to any student on the basis of race, sex, marital status, color, religion, national origin or handicapping condition.

1. The student and teacher will make every attempt to resolve the problem between themselves through meetings and discussion.

2. If the student and teacher have not been successful in resolving the discipline problem, it should then be referred to the Principal or a designee who will review the pertinent information and render a decision.
3. Conduct a meeting with parents, principal and student, as appropriate. A written summary of the meeting will be made by the Principal and shared with the parents.
4. If not resolved, conduct a meeting with the Director of the Division. A summary of any meeting will be written and shared.
5. If the issue is still unresolved, a formal complaint must be made in writing within five (5) school days¹³. Submit the formal complaint to the Director of the Division, an Assistant Superintendent, or the Title IX/Section 504/ADA Coordinator. A meeting will with the concerned parties will be held. A summary of the meeting will be written and shared.
6. If still unresolved, a meeting will be conducted with the Executive Officer. A summary of the meeting will be written and shared.
7. Decisions of the Executive Officer may be appealed to the Cooperative Board. Appeals must be made in writing within five (5) school days.
8. Decisions of the Cooperative Board may be appealed to the New York State Commissioner of Education.

X. Alternative Instruction

When a student of any age is removed from the class by a teacher or a student of compulsory attendance age is suspended from the school pursuant to Education Law 3214, the home district will take immediate steps to provide alternative means of instruction for the student. In addition, alternative instruction will be made available to any student, over the compulsory attendance age, who presents a sincere desire to complete his/her high school education.¹⁴

XI. Discipline of Students with Disabilities

Discipline, if warranted, shall be administered consistent with the separate requirements of this Student Code of Conduct for disciplining students with a disability. A student identified as having a disability shall not be disciplined for behavior related to his/her disability.

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 have certain 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.

The Student Code of Conduct affords students with disabilities subject to disciplinary action no greater or lesser rights than those expressly afforded by applicable federal and state laws and regulations.

A. Authorized Suspensions or Removals of Students with Disabilities

1. For purposes of this section of the Student Code of Conduct, the following definitions apply:

A “**suspension**” means a suspension pursuant to Educational Law 3214.

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/herself or others.¹⁵

2. The Principal may recommend the suspension or removal of a student with a disability from his/her current educational placements.¹⁶
 - a. The Board, the (BOCES) Executive Officer or a Principal, who has been delegated the authority to suspend students, 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.¹⁸

- b. The Executive Officer may order the placement of a student with a disability into an IAES, another setting or suspension up to ten 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 Executive Officer determines that the student engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time a non-disabled student would be subject to suspension for the same behavior.¹⁷
- c. The Executive Officer may order the placement of not more than ten 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.
- d. The Executive Officer may order the 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 learner carries or possesses a weapon to school or to a school function, or the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

B. Change of Placement Rule

1. A disciplinary change in placement means a suspension or removal from a student's current educational placement that is either:
 - a. for more than ten consecutive school days; or
 - b. for a period of ten consecutive school days or less if the student is subjected to a series of suspensions or removals that constitutes a pattern because they cumulate to more than ten 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 proximity of the suspensions or removals to one another.

2. School personnel may not suspend or remove a student with a disability if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension 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 disabilities.

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

Disrupting a student's education with a suspension of more than ten days must be coordinated with the home school district CSE.

1. The district's Committee on Special Education shall:
 - a. 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 ten 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/her current educational placement for more than ten 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.

- b. 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 or 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.
2. The parents of a student who is facing disciplinary action, but who has not been determined to be eligible for services under IDEA and Article 89 at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and 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.

The Executive Officer, 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.

If there is no basis for knowledge that the student is a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as any other non-disabled student who engaged in comparable behaviors.

However, if a request for an individual evaluation is made while such non-disabled student is subjected to a disciplinary removal, an expedited evaluation shall be conducted and completed in the manner prescribed by applicable federal and state law and regulations. Until the expedited evaluation is completed, the non-disabled student who is not a student presumed to have a disability for discipline purposes shall remain in the educational placement determined by the district, which can include suspension.

3. The district shall provide 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 AES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his/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 of Education shall accompany the notice of disciplinary removal.

4. 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 students of non-disabled students under the Education Law.¹⁸
5. Superintendent hearings on disciplinary charges against students with disabilities subject to a suspension of more than five school days shall be divided into a guilt phase and a penalty phase in accordance with the procedures set forth in the Regulations of the Commissioner of Education incorporated into this policy.
6. 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 ten

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.

7. During any period of suspension or removal, including placement in IAES, students with disabilities shall be provided services as required by the Regulations of the Commissioner of Education incorporated into this policy.

D. Expedited Due Process Hearing

1. An expedited due process hearing shall be conducted in the manner specified by the Regulations of the Commissioner of Education incorporated into this policy, if:
 - a. the district requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his/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/her current educational placement during such proceedings.
 - b. 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.
 - (1) 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 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.

- (2) 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.
2. 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.

E. Referral to Law Enforcement and Judicial Authorities

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

1. BOCES may report a crime committed by a student with a disability to appropriate authorities, and such action will not constitute a change of the student's placement.¹⁹
2. The Executive Officer shall ensure that copies of the special education and disciplinary records of a student with a disability are transmitted for consideration to the appropriate authorities to whom a crime is reported.²⁰

XII. 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.

In situations where alternative procedures and methods that DO NOT involve the use of physical force cannot reasonably be used, then reasonable force MAY be used to:

1. protect oneself, another student, teacher or any person from physical injury.
2. protect the property of the school or others.

3. restrain or remove a student whose behavior interferes with the orderly exercise and performance of school district functions, powers and duties, if that student has refused to refrain from further disruptive acts.²¹

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

XIII. Student Searches and Interviews

The Board 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 the law or the Student Code of Conduct. Students are not entitled to any sort of "Miranda" type warning before being questioned by school officials, nor are school officials required to contact a student's parents before questioning the student. However, school officials will tell all students why they are being questioned.

In addition, the Board authorizes BOCES officials, such as the Executive Officer, Principal, school nurses, teachers or the designee of an administrator, and 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 Student Code of Conduct. An authorized school official may conduct a search of a student's belongings that is minimally intrusive, such as touching the outside of a book bag, without reasonable suspicion, so long as the school official has a legitimate reason for the very limited search. An authorized school official may search a student or the student's belongings based upon information received from a reliable informant. Individuals other than BOCES employees will be considered reliable informants, if they have previously supplied information that was accurate and verified; they make an admission against their own interest; 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. BOCES employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate. Whenever

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

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

The rules in this Student Code of Conduct regarding searches of students and their belongings do not apply to students' 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 these areas. 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.²²

B. Documentation of Search

BOCES officials such as the Executive Officer, Principal, school nurses, teachers as the designee of an administrator, and district security officials shall be responsible for promptly recording the following information about each search:

1. name, age and grade of student searched
2. reasons for the search
3. name of any informants
4. purpose of search (that is, what item(s) were being sought)
5. type and scope of search
6. person conducting the search and his/her title and position
7. witnesses, if any, to the search
8. time and location of the search
9. results of the search (that is, the item(s) found)
10. disposition of items found
11. time, manner and results of parental notification.

The Principal or his/her designee shall be responsible for the custody, control, and disposition of any illegal or dangerous items taken from a student. The Principal or his/her designee shall retain control of the items, unless the items are turned over to the police. The police shall be responsible for personally delivering dangerous or illegal items to police authorities.

C. Police Involvement in Searches and Interviews of Students

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

1. a search or an arrest warrant, or
2. probable cause to believe a crime has been committed on school property or at a school function, or
3. been invited by school officials.

Before police officials are permitted to question or search any student, the Principal or his/her designee may first try to notify the student's parent by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents, 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 parent may be informed of the questioning or search, in writing, by the Principal or his/her designee as soon thereafter as possible. The Principal or his/her designee may 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

D. Child Protective Services Investigations

BOCES is committed to keeping students safe from harm and recognizes the obligation of school officials as mandated New York State reporters. Any staff member having reasonable cause to suspect child abuse or maltreatment is required to report their concerns to the building administrator, while retaining their responsibilities as mandated reporters. BOCES will cooperate with

the local Child Protective Services worker who wishes to conduct interviews of the student on school property relating to allegations of suspected child abuse, and/or neglect, or custody investigations.

All requests by the Child Protective Services to interview a student on school property shall be made directly to the Principal or his/her designee. The Principal or his/her designee shall:

1. set the time and place of the interview.
2. 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.
3. if the nature of the allegations is such that it may be necessary for the student to remove any of his/her clothing, the school nurse or other BOCES medical personnel must be present during that portion of the interview
4. no student may be required to remove his/her clothing in front of a Child Protective Services worker or BOCES official of the opposite sex.

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

XIV. Visitors to the School

The Board encourages parents and other citizens to visit BOCES programs 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 Principal is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the school:

1. anyone who is not a regular staff member or student of the school will be considered a "visitor."
2. all visitors to the school must report to the office of the principal or "greeter" at the school. There they will be required

to sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in the school or on school grounds.

3. visitors attending school functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
4. parents or citizens who wish to observe a classroom while school is in session are required to arrange such visits in advance with the classroom teacher(s), so that class disruption is kept to a minimum.
5. visitors should be encouraged to make appointments with staff to discuss individual matters.
6. any unauthorized person on school property will be reported to the Principal. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.
7. all visitors are expected to abide by the rules for public conduct on school property contained in this Student Code of Conduct.

XV. Public Conduct on School Property

BOCES 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.

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. BOCES recognizes that free inquiry and free expression are indispensable. The purpose of this Code is to maintain public order and prevent abuse of the rights of others.

A. PROHIBITED CONDUCT

No person, either alone or with others, shall:

1. intentionally injure any person or threaten to do so.
2. intentionally damage or remove district property.
3. disrupt the orderly conduct of classes, school programs or other school activities.
4. distribute or wear materials on school grounds or at school

functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the school program.

5. intimidate, harass, or discriminate against any person on the basis of race, color, nationality, religion, age, sex, sexual orientation or disability.
6. enter any portion of the school premises without authorization or remain in any building or facility after it is normally closed.
7. obstruct the free movement of any person in any place to which this code applies.
8. violate the traffic laws, parking regulations or other restrictions on vehicles.
9. possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on school property or at a school function.
10. possess or use firearms or other weapons including air guns, pistols, rifles, shot guns, ammunition, explosives, box cutters, knives, gas canisters, pepper spray or other noxious spray in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by BOCES.
11. loiter on or about school property.
12. gamble on school property or at school functions.
13. refuse to comply with any lawful order of identifiable school officials performing their duties.
14. willfully incite others to commit any of the acts prohibited by this Code.
15. violate any federal or state statute, local ordinance or board policy while on school property or while at a school function.

D. PENALTIES

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

1. **Visitors.** Their authorization, if any, to remain on school grounds or at the school function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to removal.

2. **Students.** They shall be subject to immediate removal and to disciplinary action as the facts may warrant, including any of the penalties listed in the “Penalties” section of this Code of Conduct, in accordance with the due process of law requirements.
3. **Tenured faculty members.** They shall be subject to immediate removal and to disciplinary action as the facts may warrant in accordance with Education Law section 3020-a or any other legal rights that they may have.
4. **Staff members in the classified service of the civil service** entitled to the protection of Civil Service Law section 75. They shall be subject to immediate removal and to disciplinary action as the facts may warrant in accordance with Civil Service Law section 75 or any other legal rights that they may have.
5. **Staff members other than those described** in subdivision 4. They shall be subject to immediate removal and to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

C. ENFORCEMENT

The Executive Officer shall be responsible for enforcing the conduct required by this Code. The Executive Officer may designate other staff who are authorized to take action consistent with the Code.

When the Executive Officer or his/her designee sees an individual engaged in prohibited conduct, which in his/her judgment does not pose any immediate threat of injury to persons or property, the designated school official shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The school official 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 designated school official 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. BOCES shall initiate disciplinary action against any student or staff member, as appropriate, with the “Penalties” section above. In addition, BOCES reserves its right to pursue a civil or criminal legal action against any person violating the Code.

XVI. Dissemination and Review

A. DISSEMINATION OF STUDENT CODE OF CONDUCT

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

1. providing copies of a summary of the Code to all students at a general assembly held at the beginning of each school year.
2. providing access to a summary of the Student Code of Conduct to all parents of district students before the beginning of the school year.
3. providing all new employees with a copy of the current Student Code of Conduct when they are first hired.
4. providing access to copies of the Code for review by students, parents, staff and other community members.
5. posting Student Code of Conduct on the Orange-Ulster BOCES Web Page.
6. A copy of the Code will be filed in each school building, where it will be available for review by any individual.

The Board may appoint an advisory committee to assist in reviewing the Code and the response to Student Code of Conduct violations. The committee will be made up of representatives of students, teachers, administrators, and parent organizations, school safety personnel and other school personnel.

Before making any revisions to the Code, the Board will hold at least one public hearing at which school personnel, parents, students and any other interested parties may participate.²³ The Student Code of Conduct and any amendments to it will be filed with the Commissioner of Education no later than 30 days after adoption.



**Student Code of Conduct
Acknowledgement Page**

I acknowledge having read this document.

Student Name _____ **(Print)** _____ **Date** _____

(Signature)

Parent/Guardian Name _____ **(Print)** _____ **Date** _____

(Signature)



Student Code of Conduct

Acknowledgement Page (For Adult Education Students Only)

I acknowledge having been made aware of the basic principles of the student code of conduct and where I may access the document in its entirety.

Student Name _____ **(Print)** _____ **Date** _____

(Signature)

ANNOTATIONS

The Board of Education has the exclusive authority to adopt and amend the Code of Conduct. However, the law requires that the Code be developed in collaboration with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel (§2801(2)).

When the word “must” or “will” is used in this Code of Conduct, it means that the action described is mandatory and that the designated actor is required to act.

¹ The definition of “disruptive student” is taken from Education Law 3214(2-a)(b).

² The definition of “school property” is taken from Education Law §2801.

³The definition of “school activity” is taken from Education Law 2801(1).

⁴ The federal law defines “weapon” somewhat narrowly. Only the following are included in the definition:

1. Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of any explosive.
2. The frame or receiver of any weapon described above
3. Any destructive device, which is defined as any explosive, incendiary, or poison gas, such as a bomb, grenade, rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or other similar device.
4. Any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has a barrel with a bore of more than one-half inch in diameter.
5. Any combination of parts either designed or intended for use in converting any device into any destructive device described in item 3 or 4 above, and from which a destructive device may be readily assembled (18 USC § 914).

The U.S. Department of Education, the federal agency responsible for overseeing the implementation of the Gun-Free Schools Act, has stated that local school districts may decide to broaden their definition to include other weapons as well.

This Code of Conduct has been written to take advantage of this authority retained by local school boards and includes many items commonly thought of as weapons which are not included in the federal law definition. Specifically, the Code prohibits students from possessing a gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, metal knuckle knife, box cutters, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, or other dangerous instrument that can cause physical injury or death. Many of the items in this list of weapons come from Penal Law §265.00. The goal of this broad prohibition and the significant consequence attached to bringing any weapon to school is to stress to students that no weapon of any kind is to be brought to school. All school districts should carefully evaluate this “zero tolerance” approach to weapons possession and consult with their school attorney before adopting it.

⁵ The definition of “violent student” is taken from Education Law §3214(2-a)(a). The definition has been modified slightly in that the statutory definition does not use the term “weapon.” Instead, the statute at one point refers to a “gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death,” and at another it refers to “any instrument that appears capable of causing physical injury or death.” Given the breadth of statutory language and the definition of weapon that is used in the Code of Conduct, we have simplified the definition of violent student used in the Code of Conduct by simply using the term “weapon.”

⁶ The definition of “weapon” is much broader than the definition used in the federal Gun-Free Schools Act of 1995. The term is broadly defined to keep all types of objects that can cause serious injury or death out of schools, and thereby enhance school safety. The school board has discretion as to how it defines “weapon” in the Code of Conduct. The board should be aware, however, that federal and state law mandate that students who possess a weapon as defined in federal law (18 USC §921) be suspended from school for a minimum of one calendar year. The SAVE legislation also requires that the district’s Code of Conduct provide for a minimum period of suspension for all acts that would qualify a student to be defined

as a violent student (§2801(2)(m)). Given the statute's definition of "violent students", any student who possesses, displays or threatens to use weapons on school property (see footnote 7 above) would be a violent student and therefore subject to the minimum period of suspension.

⁷ While Education Law §2801 does not require that a district's Code of Conduct contain a bill of rights and responsibilities of students, the Commissioner's regulations do include this requirement. Specifically, the regulations state that the Code of Conduct must contain..."(o) a bill of rights and responsibilities of students which focus upon positive student behavior, and which shall be publicized and explained to all students on an annual basis; and (p) guidelines and programs for in-service education programs for all district staff members to ensure effective implementation of school policy on school conduct and discipline" (8 NYCRR 100.02(l)(2)(ii)(o) and (p))."

These additional regulatory components to the Code of Conduct are not new, but are contained in current Commissioner's regulations which all school districts have been subject to for a number of years and will continue to be subject to.

⁸ The SAVE legislation requires a district's Code of Conduct to contain provisions regarding acceptable conduct on school property, the range of penalties that may be imposed for code violations, "and the roles of teachers, administrators, other school personnel, the board of education and parents (§2801(2)(a))." The Code of Conduct sets forth certain specific roles for parents, teachers, guidance counselors, principals, the superintendent and the board of education *related to maintaining safe, orderly schools*. The lists obviously do not contain all that is expected of these groups. School districts should work closely with these critical groups to define the expected roles.

⁹ The SAVE legislation requires that the Code of Conduct is to govern the conduct of students, teachers, and other school personnel, and visitors (Education Law §2801(2)) and requires that the Code contain provisions regarding dress while on school property (§2801(2)(a)). This Code contains a dress code that is limited to students only. It does not apply to district personnel or visitors.

School officials should be aware that the Public Employment Relations Board has held that a dress code is a mandatory subject of bargaining, and may not be imposed upon unionized district personnel unilaterally

(*State of New York (Dept. of Taxation and Finance)*, 30 PERB ¶ 3028 (1997)).

In developing a student dress code, district officials should note that, generally, school officials may not prescribe students' dress while they attend school in cases where fashion or taste is the sole criterion. However, a dress code may be adopted (and indeed the SAVE legislation requires that one be adopted) where there are legitimate educational concerns (*Appeal of Pintka*, 33 EDR 228 (1993)).

According to decisions of the courts and the Commissioner, however, a dress code may not be vague, subjective or overly broad (*Appeal of Parsons*, 32 EDR 672 (1993)). The dress code, like all other parts of the district's Code of Conduct, should be developed in collaboration with teachers, administrators, other school service professionals, students and parents to ensure that it reflects "current community standards" on "proper decorum and deportment" (*Appeal of Parsons*; *Appeal of Phillips*, 38 EDR 297 (1998)). School districts may regulate students' dress when such rules relate to a specific educational purpose such as teaching students socially appropriate behavior, or health, safety, or full participation in school activities, such as science laboratories and physical education classes. However, clothing worn to make a religious or political statement cannot be banned, unless it is disruptive of the educational process, lewd or offensive (*Tinker v. Des Moines Independent School District*, 393 U.S. 503 (1969)).

Thus, for example, the commissioner has ruled that the wearing of hats cannot be prohibited in school hallways unless the display is vulgar and indecent, imposes a health risk, is disruptive or implicates other compelling educational concerns. Hats may be banned in the classroom for the same reasons, and also if they are considered disrespectful and improper under community standards (*Appeal of Pintka*). The commissioner has also held that an unwritten policy prohibiting the wearing of vests and outerwear by students does not violate student First Amendment rights where there is no evidence that the student's vest was protected as symbolic speech of either political or religious expression (*Appeal of Mangaroo*, 33 EDR 286 (1993)).

¹⁰ The SAVE legislation requires that the Code of Conduct contain provisions setting forth the procedures by which local law enforcement agencies will be notified of code violations that constitute a crime (§2801(2)(h)). The law does not state that law enforcement must be notified

of *all* code violations that constitute a crime. It could be argued, however, that since this section of the law does not state that school districts have the authority to set forth “the circumstances under” which law enforcement will be notified as well as the procedures (as does section 2801(2)(l) dealing with notification to parents), districts are required to notify local law enforcement authorities of all violations that constitute a crime.

Some level of discretion may be required to avoid involving law enforcement unnecessarily in school disciplinary matters and creating a police state environment in schools. Therefore, the Code of Conduct has been written to require that principals notify local law enforcement authorities of only those code violations that substantially affect the order or security of a school and constitute a crime. Thus a principal would not have to report the theft of a few dollars or the intentional destruction of an inexpensive piece of district equipment.

School boards should give careful thought to this provision of their district’s code and consult with their school attorney.

¹¹ The federal Gun-Free Schools Act of 1994 (20 USC § 8921) requires all states that receive funds under the Elementary and Secondary Education Act of 1965 to have a law that requires school districts to suspend students who bring weapons to school for a minimum of one calendar year. Section 3214(3)(d) of the Education Law has been amended to comply with the federal law.

School boards that do decide to adopt a broader definition of weapon in their Code of Conduct should be aware that students who possess a weapon as defined in federal law *must* be subjected to the minimum one calendar year suspension in order to comply with state and federal law.

Any student who possesses a weapon other than a weapon as defined in federal law *may* be subjected to a minimum of one calendar year suspension.

¹² The SAVE legislation and regulations do not prescribe a period for which a disruptive student may be removed from the classroom by a teacher, but instead state that the period is to be prescribed by the district’s Code of Conduct. The legislation states that a teacher may remove a student from his classroom for no more than two days per incident. The board may adopt any number it chooses. However, the board should be aware that if

the number of days is more than five, the district would be required to hold a superintendent's hearing (see *Appeal of Trombly*, 26 EDR 214 (1986)). For this reason, it is recommended that the number adopted by the Board be five or less.

¹³ Nothing prevents parties from *voluntarily* agreeing to alter time lines. The agreement, however, must be completely voluntary. Again, school districts should consult with their school attorney before adopting a similar provision in their Code of Conduct.

¹⁴ Under the law, the district must provide alternative education to those students of compulsory attendance age who are suspended (Education Law §3214(3)(e)) and to all students who are removed from class by a teacher (§3214(3-a)). The Board should be aware that the district *may*, but is not required to, provide alternative education to students over the compulsory education age. As written, the Code of Conduct provides that suspended students over the compulsory education, who evidence a sincere desire to complete their high school education, will be provided with alternative education. School officials are reminded that under Education Law § 3214(3)(e) districts are required to take immediate steps to provide the required alternative instruction. "Immediately" does not mean instantaneously, but it does mean that the district should act promptly, with due regard for the nature and circumstances of the particular case. One court has held invalid a policy that stated that the district would not provide alternative instruction for students suspended for five days or less (*Turner V. Kowalski*, 49 A.D.2d 943 (2nd Dept. 1975)). In another case, the Commissioner admonished a district for having a policy that stated that the district would not provide alternative instruction if the period of suspension were less than three days (*Appeal of Bridges*, 34 EDR 232 (1994)).

The Commissioner of Education has also repeatedly held that placing a student in a study hall does not suffice as alternative instruction for students under the compulsory attendance age (see for example, *Child Suspected of Having a Handicapping Condition*, 31 EDR 42 (1991); *Appeal of Ackert*, EDR 31 (1990); *Matter of Malpica*, 20 EDR 365 (1999)).

¹⁵ Under federal law, removing a student with a disability from the classroom for even part of a day can constitute a removal for the entire day. Subjecting a student with a disability to a series of suspensions or removals that create a pattern because they cumulate to more than 10 school days in a school year can constitute a change in placement. School districts are required to afford students with a disability certain procedural

protections before there is a change in placement, and failure to do so can subject districts to significant liability.

Because of this potential for liability and because there is no way for a teacher to know in advance if his/her decision to remove a student with a disability from class would result in a change of placement, the Code of Conduct requires a teacher to verify with the principal or the chairperson of the CSE before removing a disabled student.

Developing procedures to balance the rights of a disabled student who disrupts the classroom against a teacher's need to maintain order in the classroom requires a thorough understanding of the state and federal law governing the discipline of students with disabilities. As such, school districts must consult with their school attorney to develop such procedures.

¹⁶ Neither the SAVE legislation nor the regulations defines "removal." This Code of Conduct has been developed to preserve the time-honored classroom management technique whereby a teacher temporarily directs a student to leave the classroom without invoking the due process requirements of the SAVE legislation.

Although the Commissioner has ruled on several occasions that a student may not be removed from a classroom without complying with the suspension provisions of Education Law § 3214 (see, for example, *Appeal of Ackert*, 30 EDR. 31 (1990)), these cases have all involved something other than a temporary removal from the classroom for less than one period. For example, in *Application of a Child Suspected of Having a Handicapping Condition*, 31 EDR 42 (1991), a teacher removed a student from his classes for the remainder of the day and sent the child to the library. In *Appeal of Trombly*, 26 EDR 214 (1986), a principal removed a student from a class for the last five days of a semester. *Matter of Boylan*, 24 EDR 421 (1985), involved a student who was removed from class for approximately two months. In *Matter of Malpica*, 20 EDR 365 (1981), a student received two hours of after-school instruction in lieu of her regular classes from which she was suspended for more than five days. Finally, in *Matter of Caulfield*, 18 Educ. EDR 574 (1979), a student was removed from four out of her five classes for several months.

School districts should seek the advice of their school attorney in crafting the exact language of this provision to ensure it complies with the Commissioner's decisions on Education Law § 3214.

¹⁷ The SAVE legislation gives building principals the authority to suspend students for five days or less (§ 3214 (3)(a)). The prior law allowed principals authority only if the Board of Education had adopted a bylaw delegating this authority. Principals are also authorized under the SAVE legislation to suspend a student for a period of more than five days (§3214(3)(c)(1)). However, no student may actually be suspended for a period of longer than five days unless and until the student is given notice and an opportunity for a hearing before the superintendent or a hearing officer designated by the superintendent.

¹⁸ The Code of Conduct provides a specific process for parents to appeal suspension decisions for five days or less to the Board in response to the decision *Appeal of Amara S*, Decision No. 14, 182 (July 30, 1999). In that case the Commissioner held that he would not dismiss an appeal of a suspension decision for five days or less based upon the parents' failure to appeal the decision first to the Board unless the Board had a policy specifically requiring the parents to appeal such a decision to the Board. The Commissioner stated, however, that a school district may impose, by a properly adopted policy or regulation, appeal requirements that are reasonable and consistent with the right of complainants under the Education Law to have disputes ultimately reviewed by the Commissioner.

Requiring complainants to appeal to the Board before allowing an appeal to the Commissioner is beneficial to the district in that it affords the Board the opportunity to either approve or disapprove of the decisions of the district's administrators before those decisions are reviewed by an outsider, thereby giving the Board greater control over district operations.

The Code sets the time frame for submitting appeals to the Board as 10 business days, absent a showing of extraordinary circumstances. Because there is no specific guidance from the Commissioner as to what is a reasonable time frame, school districts are urged to consult with the school attorney before adopting this provision.

While the board has discretion in setting the time frame in which appeals to the Board are to be filed, the 30-day time frame provided for in the regulation for filing appeals to the Commissioner is fixed by State regulation (8 NYCRR §275.16) and therefore cannot be altered by Board policy.

The Code also provides for a similar process for parents to appeal suspension decisions of more than five days. It is not necessary that the

Code contain this appeal requirement, because the Education Law §3214(3)(c) explicitly requires that appeals of suspensions for more than five days be filed with the Board before being filed with the Commissioner. The same Code includes this process, with the same 10 business day time frame for filing an appeal as required for appeals of suspensions of five days or less, to make the process for filing appeals uniform and therefore easier for administrators to apply.

¹⁹ A portion of the Code of Conduct applies only to students with disabilities under IDEA and Article 89. It does not necessarily apply to students who qualify as disabled only under section 504 of the Rehabilitation Act. School districts should consult with their school attorney to ensure compliance with §504.

²⁰ The Education Law requires the superintendent to refer students under the age of 16 and selected other younger students to a “presentment agency” for a juvenile delinquency proceeding. In most, but not all, counties the “presentment agency” is the County Attorney. The district should verify the title of the local presentment agency with its school attorney.

²¹ The section of the Code of Conduct recites the Commissioner’s regulations governing the use of reasonable physical force by school district personnel against students (8 NYCRR §§ 19.5(a)-(c); 100.21(1)(3)(i)). Neither the SAVE legislation nor the regulations require that this provision be included in the Code of Conduct. It is included in this Code because of its relevancy to the issue of maintaining or restoring school safety.

²² The New York State Court of Appeals has held that although students may have exclusive use of a locker as far as other students are concerned, they do not have such exclusivity over the locker as against the school authorities (*People V. Overton*, 20 N.Y.2d 360 (1969)). The Board should make certain to include in the district’s Code of Conduct a provision that states that lockers, desks, and other such storage spaces remain the exclusive property of the school, and that students have no expectation of privacy with respect to these areas. It was significant to the court’s decision in the *Overton* case that students had been told that they had exclusive possession of their lockers only in relation to other students.

²³ Education Law §2801(5) requires the Board of Education to review and update the district’s Code of Conduct annually.

**GLOSSARY OF TERMS USED IN REPORTING
VIOLENT AND DISRUPTIVE INCIDENTS
REVISED OCTOBER 11, 2006**

Source: <http://www.emsc.nysed.gov/irts/violence-data/2006/glossary.doc>

For additional information refer to the "Questions and Answers" document available at: <http://www.emsc.nysed.gov/sss/SDFSCA/uvirpage.htm>. (Scroll down to the "Questions and Answers" item and click on one of the links on the right side of the screen.)

Incident Categories

- (1) **Homicide:** Any conduct that results in the death of another person.
- (2) **Sexual Offenses:**
 - 2.1 **Forcible Sex Offenses:** Involving forcible compulsion and completed or attempted sexual intercourse, oral sexual conduct, anal sexual conduct or aggravated sexual contact with or without a weapon including but not limited to, rape and sodomy. Pursuant to Penal Law §130.00(8), "**forcible compulsion**" means "to compel by either: (a) use of force; or (b) a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped." Pursuant to Penal Law §130.00(11), "**aggravated sexual contact**" means "inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis or rectum of a child, thereby causing physical injury to such child." "**Oral sexual conduct**" and "**anal sexual conduct**" mean oral or anal sex.
 - 2.2 **Other Sex Offenses:** involving inappropriate sexual contact but no forcible compulsion. Other sex offenses, includes, but is not limited to, conduct that may be consensual or involve a child who is incapable of consent by reason of disability or because he or she is under 17 years of age. However, it does not include consensual conduct involving students and/or non-students 18 years of age or under, unless at least one of the individuals participating in the conduct is at least 4 years older than the youngest participant.

Inappropriate **sexual contact** but no forcible compulsion includes, but is not limited to, the following:

- a) touching or grabbing another student on a part of the body that is generally regarded as private, such as buttocks, breast, genitalia etc.
- b) removing a student's clothing to reveal underwear or private body parts

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- c) brushing or rubbing against another person in a sexual or provocative manner
 - d) a student first rubbing their own genitalia and then touching another person's body

Note: Verbal sexual harassment should be reported in category 10 (Intimidation, Harassment, Menacing or Bullying.)

- (3) **Robbery:** Forcible stealing of property from a person by using or threatening the immediate use of physical force upon that person, with or without the use of a weapon.
- (4) **Assault with Serious Physical Injury:** Intentionally or recklessly causing serious physical injury to another person, with or without a weapon, in violation of the school district code of conduct. Pursuant to Penal Law §10.00(10), "**serious physical injury**" means physical injury, which creates a substantial risk of death, or serious and protracted disfigurement or protracted impairment of health or protracted loss or impairment of the function of any bodily organ. Serious physical injury requires hospitalization or treatment in an emergency room and includes but is not limited to, a bullet wound, a serious stab or puncture wound, fractured or broken bones or teeth, concussions, cuts requiring stitches and any other injury involving risk of death or disfigurement.
- (5) **Arson:** Deliberately starting a fire with intent to damage or destroy property by using matches, lighters or other devices capable of producing sufficient heat (i.e. magnifying glass) to ignite other combustible items, including, but are not limited to, paper, linens, clothing, and aerosol cans. Property includes any object belonging to the school, students, school staff or visitors to the school, including personal items of the arsonist.
- (6) **Kidnapping:** To abduct, as defined in section 135.00 of the Penal Law, a person, so as to restrain such person with intent to prevent his or her liberation, by either (a) secreting or holding him or her in a place where he or she is not likely to be found, or (b) using or threatening to use deadly physical force with or without a weapon.
- (7) **Assault with Physical Injury:** Intentionally or recklessly causing physical injury (not serious) to another person, with or without a weapon, in violation of the school district code of conduct. Physical injury means impairment of physical condition or substantial pain. Physical injury includes, but is not limited to, black eyes, welts, abrasions, bruises, black and blue marks, cuts not requiring stitches, and swelling. Substantial pain includes, but is not limited to, severe headaches, joint, or muscle pain.
- (8) **Reckless Endangerment:** Subjecting individuals to danger by recklessly engaging in conduct that creates a grave risk of death or serious physical injury, but no actual physical injury. The following are examples of

incidents that did not result in physical injury but should be reported as reckless endangerment:

- a) Throwing an object at another student. The object thrown must be capable of causing a grave risk of death or serious physical injury. A serious physical injury requires hospitalization or treatment in an emergency room and includes, but is not limited to, a bullet wound, a serious stab or puncture wound, fractured or broken bones or teeth, concussions, cuts requiring stitches and any other injury involving risk of death or disfigurement.
 - b) Incidents involving a person choking another individual, including, but not limited to incidents where a student offender refuses to obey staff directives or interventions to stop choking his or her victim.
 - c) Brandishing a weapon on a school bus threatening other students, bus driver and/or bus monitor with harm or injury.
 - d) Driving a car erratically and recklessly in a school parking lot while other student(s), staff, or individuals are present.
- (9) **Minor Altercations:** involving physical contact and no physical injury. Striking, shoving, or kicking another person or subjecting another person to unwanted physical contact with intent to harass, alarm or seriously annoy another person, but no physical injury results. Fights that do not result in serious physical injury or physical injury are reported in this category.
- (10) **Intimidation, Harassment, Menacing, or Bullying Behavior and No Physical Contact:**
Threatening, stalking, or seeking to coerce or compel a person to do something; intentionally placing or attempting to place another person in fear of imminent physical injury; or engaging in verbal or physical conduct that threatens another with harm, including intimidation through the use of epithets or slurs involving race, ethnicity, national origin, religion, religious practices, gender, sexual orientation, age, or disability that substantially disrupts the educational process. Incidents **not** resulting in a disciplinary or referral action are reported in Item 2 of the *Summary Form*. Incidents of harassment involving physical contact are reported in the Category 9 (Minor Altercations).
- (11) **Burglary:** Entering or remaining unlawfully on school property with intent to commit a crime.
- (12) **Criminal Mischief:** Intentional or reckless damaging of the property of the school or of another person, including, but not limited to, vandalism and the defacing of property with graffiti.

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- (13) **Larceny or Other Theft Offenses:** Unlawful taking and carrying away of personal property with intent to deprive the rightful owner of property. Permanently or unlawfully withholding property from another.
- (14) **Bomb Threat:** A telephoned, written, or electronic message that a bomb, explosive, chemical, or biological weapon has been or will be placed on school property.
- (15) **False Alarm:** Falsely activating a fire alarm or other disaster alarm.
- (16) **Riot:** Four or more persons simultaneously engaging in tumultuous and violent conduct and thereby intentionally or recklessly causing or creating a grave risk of physical injury or substantial property damage or causing public alarm.
- (17) **Weapons Possession Only:** Possession of one or more of the weapons listed below, except possession in a classroom or laboratory as part of an instructional program or in a school-related activity under the supervision of a teacher or other school personnel as authorized by school officials. Possession includes bringing a weapon to or possessing a weapon at school.

Weapons:

- a. a firearm, including, but not limited to, a rifle, shotgun, pistol, handgun, silencer, electronic dart gun, stun gun, machine gun, air gun, or spring gun;
- b. a switchblade knife, gravity knife, pilum ballistic knife, cane sword, dagger, stiletto, dirk, razor, box cutter, metal knuckle knife, utility knife, or any other dangerous knife;
- c. a billy club, blackjack, bludgeon, chukka stick, or metal knuckles;
- d. a sandbag or sandclub;
- e. a sling shot or slungshot;
- f. a martial arts instrument, including, but not limited to, a kung fu star, ninja star, nin-chuck, or shirken;
- g. an explosive, including but not limited to, a firecracker or other fireworks;
- h. a deadly or dangerous chemical, including, but not limited to, a strong acid or base, mace, or pepper spray;
- i. an imitation gun;
- j. loaded or blank cartridges or other ammunition; or
- k. any other deadly or dangerous instrument.

17.2 Weapons Confiscated (Security Screening) (Effective for the 2006-07 data collection period). As of July 1, 2006, weapons that are detected and confiscated as a result of a security screening process (scanners, metal detectors, and other devices) upon entry into the school building should be recorded in this category. The phrase "upon entry" into the school building means that the

weapon(s) is detected as a result of students, staff or visitors passing through these devices in order to get into the school building proper. This category is to be used only for weapons possession incidents that are discovered as a result of scanning devices at entrances, not within the school building or as a result of random searches of individuals or lockers, etc.

- (18) ***Use, Possession, or Sale of Drugs Only.*** Illegally using or possessing a controlled substance, such as marijuana, on school property, including having such substance on a person or in a locker, vehicle, or other personal space; selling or distributing a controlled substance such as marijuana on school property; finding a controlled substance, such as marijuana, on school property that is not in the possession of any person; provided that nothing herein shall be construed to apply to the lawful administration of a prescription drug on school property. Tobacco and tobacco products are not to be considered as drugs for the purposes of incident reporting. **Incidents should only be reported in this category if they were not associated with an offense reportable in Categories 1–16.**
- (19) ***Use, Possession, or Sale of Alcohol Only.*** Using or possessing alcohol on school property, including having such substance on a person or in a locker, vehicle, or other personal space; selling or distributing alcohol on school property; or finding alcohol on school property that is not in the possession of any person; provided that nothing herein shall be construed to apply to the lawful administration of a prescription drug on school property. **Incidents should only be reported in this category if they were not associated with an offense reportable in Categories 1–16.**
- (20) ***Other Disruptive Incidents:*** Other incidents involving disruption of the educational process and rise to the level of a consequence listed in the *Summary Report* (columns j-0). Reportable incidents are limited to those resulting in disciplinary action or referral.

Other Definitions

Disciplinary or Referral Action: For purposes of reporting, a disciplinary or referral action includes a referral to: Counseling or Treatment Programs, Teacher Removal, Suspension from Class or Activities, Out-of-School Suspension, Involuntary Transfer to Alternative Education Program or Law Enforcement/Juvenile Justice. (Refer to definitions below.)

Counseling or Treatment Programs: For purposes of reporting, referrals to counseling or treatment programs are formal multi-session interventions, provided by certified or licensed professionals, aimed at reducing risk factors and increasing protective factors linked to the identified problem area(s) (i.e., drug/alcohol rehabilitation programs, anger management programs, etc.). Note:

Routine referrals of a student to a principal or assistant principal for possible disciplinary action should not be counted as a referral to counseling or treatment program.

Teacher Removal: For purposes of reporting, a "teacher removal" means the removal of a disruptive pupil from the teacher's classroom pursuant to the provisions of Education Law §3214(3-a). Routine referrals of a student to a principal or assistant principal for possible disciplinary action should not be counted as a teacher removal.

Suspension from Class or Activities: For purposes of reporting, suspension from class or activities includes in-school suspension and/or suspensions from school transportation or school/ extracurricular activities, such as band, choir, or athletics. Report incidents that result in an in-school suspension that lasts for at least the equivalent of one school day. Report suspensions from activities or transportation that excludes the student from the activity for at least five consecutive school days.

Out-of-School Suspension: The student is suspended from attending school for at least one day.

Transfer to Alternative Education Program: For purposes of reporting, a "transfer to an alternative education program" means any transfer to an educational program in a setting outside of the student's home school to which the student is referred as part of or in lieu of disciplinary action, i.e., as a consequence of the child's misconduct. This includes, but is not limited to, involuntary transfers pursuant to Education Law §3214(5) and placement of students with disabilities in interim alternative educational settings as a result of violations of the school district code of conduct.

Transfer to Law Enforcement/Juvenile Justice: For purposes of reporting, referrals to law enforcement or juvenile justice include each incident whereby the perpetrator is referred to the police, law enforcement officers, or criminal justice.

Gang Related: An incident is gang related if it is gang motivated or if gang membership caused the incident or contributed to actions that occurred during the incident. For example, an incident of vandalism or robbery might be part of an initiation into a gang, or a fight might be caused by gang rivalry. Report an incident as gang-related only if certain that gang membership contributed to the incident. A gang is an organized group characterized by turf concerns, symbols, special dress, and/or colors that engages in delinquent or illegal activity. This definition is from the National Center for Education Statistics.

Bias Related: An incident is bias related if it is motivated by hate due to some characteristics or perceived characteristics of the victim, including race, gender, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability. Any act, or attempted act, is bias-related if it is designed to cause physical injury, emotional suffering, or property damage through intimidation,

harassment, racial/ethnic slurs and bigoted epithets, vandalism, force, or the threat of force, motivated all or in part by hostility to some real or perceived characteristic of the victim. This definition is from the National Center for Education Statistics.

Student Code of Conduct Development Committee 2000-2001

- . Carol Anthony, Parent/STRIVE
- . Mary Bloom, Teacher
- . Deborah Brunjes, Principal
- . Donna Carbone, Teacher
- . Kathleen Carmody, Assistant Director
- . Joseph Dolan, Teacher
- . Sean Donlon, Teacher
- . Marguerite Flood, Director
- . Thomas Genovese, Teacher
- . Carmen Gubernick, Paraprofessional
- . Christopher Haller, Counselor
- . Karen Hincapie, Teacher
- . James Killcullen, Teacher
- . Lorraine Krlis, School Social Worker
- . Karla Link, Teacher
- . Elizabeth Lundy, Paraprofessional
- . John McHale, Principal
- . Susan Murray-Tetz, School Social Worker
- . Patricia Quill, Teacher
- . Michael Rheume, Administrative Intern
- . Howard Riley, Assistant Director
- . Angela Romano, Coordinator
- . Olive Schoonmaker, Teacher
- . Mark Stryker, Flannery Junior/Senior High School – Student Member

-
- . Donna Tyrrell, Parent
 - . Darlene Waddell, Teacher