

# **ANNOTATED CODE OF CONDUCT**

***Enlarged City School District of Middletown, NY***

Approved August 6, 2009

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**CODE OF CONDUCT  
FOR  
THE ENLARGED CITY SCHOOL DISTRICT OF MIDDLETOWN, NY<sup>1</sup>**

**I. INTRODUCTION<sup>2</sup>**

The Board of Education (Board) is committed to providing a safe and orderly school environment where students may receive and district personnel may deliver quality educational services without disruption or interference. Responsible behavior by students, teachers, other district personnel, parents and other visitors is essential to achieving this goal.

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

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

Additionally, the District maintains that it can discipline students for conduct that affects the health and safety of others in school, or causes a material or substantial disruption or threat, even if the conduct takes place off school grounds. The District reserves the right to discipline for "off campus" behavior where such behavior by a student:

- a. constitutes a threat to the health, safety, or welfare to staff, students, or volunteers within the school district, or which can be reasonably understood as urging violent conduct against such persons, or
- b. results in school administrators' reasonable belief that the off-campus behavior creates a foreseeable risk of substantial disruption within the school setting.

Unless otherwise indicated, this Code applies to all students, school personnel, parents and other visitors when on school property or attending any school function. This Code shall apply at all times, throughout the calendar year and shall not be construed to have time or date limitations as a function of the school term.

**II. DEFINITIONS**

For purposes of this Code, the following definitions apply:

"Disruptive student" means an elementary or secondary student of the age of 21 or under who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom and demonstrates a persistent unwillingness to comply with the teacher's instructions.<sup>3</sup>

"Parent" means the biological, adoptive, or foster parent, guardian or person in parental relation to a student.<sup>4</sup>

"Essential partners" are people who have a responsibility for school safety and compliance with the Code of Conduct. They include students, parents, teachers, guidance counselors, administrators, the Superintendent, and the Board.

"School property" means in, on, or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school, or in or on a school bus, as defined in Vehicle and Traffic Law §142.<sup>5</sup> This Code shall apply to all persons attending school-sponsored activities off school property as herein described, i.e. field trips, athletic contests, or any other school activity or program off premises.

Nothing in this Code shall limit the authority of school officials to implement this Code with students from other schools, within or outside the Middletown School District.

"School function" means any school-sponsored extra-curricular event or activity.<sup>6</sup>

References to time in this document, (e.g. "*the Principal or his/her designee will respond within 48 hours....*") denotes days in which school is in session. Therefore, weekends, emergency closings, and holidays would not be considered part of the time frames referenced in this Code.

"Violent student"<sup>7</sup> means a student of the age of 21 or under who:

1. commits, or attempts to commit, an act of violence upon a school employee.
2. commits, or attempts to commit, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at a school function.
3. possesses, while on school property or at a school function, a weapon.
4. displays, while on school property or at a school function, what appears to be a weapon.
5. threatens, while on school property or at a school function, to use a weapon or inflict bodily harm.
6. communicates acts of violence with phrases that contain words such as kill, shoot, stab, murder, etc.
7. uses a weapon or any other instrument for a violent purpose.
8. knowingly and intentionally damages or destroys personal or school property of any school employee or any person lawfully on school property or at a school function.

"Weapon" means a firearm as defined in 18 USC §921 for purposes of the Gun-Free Schools Act.<sup>8</sup> It also means any other gun, pistol, revolver, shotgun, rifle, machine gun, BB gun, pellet gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, Kung Fu

star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb or other device, instrument, material or substance that can cause serious physical injury or death when used as a weapon<sup>9</sup> including but not limited to common pocket knife, hunting knife or fishing knife.

“Controlled substance” means a drug or other substance identified by the federal Controlled Substances Act (defined by Section 812, Schedules I-V, of Title 21, United States Code, Section 801) and NYS penal codes. These include but are not limited to marijuana, any narcotic drug, any hallucinogen, any stimulant, or any depressant; including analogues, designer drugs and counterfeits similar to or represented as similar to a controlled substance, whether legal or illegal.

“Illegal substances” include but are not limited to marijuana, cocaine, ecstasy, LSD, PCP, methamphetamines, heroin, steroids, inhalable products or other chemicals or products prohibited by NYS law, county law or US law.

“Alcoholic beverages” include but are not limited to liquor, malt beverages, wine or other intoxicating liquid.

“Drug-related paraphernalia” includes any device or instrument that on its face is used for the production, packaging, distribution, or ingesting of a controlled substance, illegal substance or prohibited substance. This includes but is not limited to hash pipes, water pipes, clips, rolling papers, or any other items related to drug use or drug distribution.

“Harassment” (defined in Board Policy 3420) shall mean communication (verbal, written or graphic) and/or physical conduct based on an individual’s actual or perceived race, color, creed, religion, national origin, political affiliation, sex, sexual orientation, age, marital status, military status, veteran status, or disability that:

a) Has the purpose or effect of substantially or unreasonably interfering with an individual’s work performance or is used as a basis for employment decisions (including terms and conditions of employment) affecting such individual; and/or creates an intimidating, hostile or offensive learning environment;

b) Has the purpose or effect of substantially or unreasonably interfering with a student’s academic performance or participation in an education or extracurricular activity, or creates an intimidating, hostile or offensive learning environment; and/or effectively bars the student’s access to an educational opportunity or benefit;

c) Otherwise adversely affects the employment and/or educational opportunities and benefits provided by the District.

“Contraband” means any item prohibited in accordance with the individual school’s student and/or parent handbook.

### **III. STUDENT RIGHTS AND RESPONSIBILITIES<sup>10</sup>**

#### **A. STUDENT RIGHTS**

The District is 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. attend a safe, healthy, orderly, respectful, and civil school environment.
2. access available programs and/or mechanisms to address behaviors that may lead to disciplinary problems.
3. take part in all district 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 penalty in connection with the imposition of the penalty.
5. access school rules and, when necessary, receive an explanation of those rules from school personnel.

#### **B. STUDENT RESPONSIBILITIES**

In order to be a good citizen, all district students have the responsibility to:

1. contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. be familiar with and abide by all district policies, rules and regulations dealing with student conduct.
3. attend school every day (unless they are legally excused) and be in class, on time, and prepared to learn.
4. work to the best of their ability in all academic and extra-curricular pursuits and strive toward their highest level of achievement possible.
5. react to directions given by teachers, administrators and other school personnel in a respectful manner.
6. work to develop mechanisms to control their anger.
7. ask questions when they do not understand.
8. seek help in solving problems that might lead to discipline.
9. dress appropriately for school and school functions.
10. be accountable for their actions.
11. conduct themselves as representatives of the District when participating in or attending school-sponsored extra-curricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship.

## **IV. ESSENTIAL PARTNERS<sup>11</sup>**

### **A. PARENTS**

All parents are expected to:

1. recognize that the education of their child(ren) is a joint responsibility of the parents and the school community.
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 excused.
5. have their children 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 and help their children understand them.
8. convey to their children a supportive attitude toward education and the District.
9. build good relationships with teachers, other parents, and their children's peers.
10. help their children deal effectively with peer pressure.
11. inform school officials of changes in the home situation that may affect student conduct or performance.
12. provide a place for study and ensure homework assignments are completed.
13. attend parent-teacher conferences.
14. provide up-to-date emergency contact information.
15. present proper personal identification upon entering any school district building and upon request by school district personnel.

### **B. TEACHERS**

All district teachers are expected to:

1. maintain a climate of mutual respect and dignity, which will strengthen students' self-concept and promote confidence to learn.
2. 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. individual student growth and achievement at regular intervals

### **C. GUIDANCE COUNSELORS**

All district guidance counselors are expected to:

1. assist students in coping with peer pressure and emerging personal, social and emotional problems.
2. participate in teacher/student conferences and parent/teacher/student conferences, as necessary, to address issues or concerns.
3. regularly review with students their educational progress.
4. provide information to assist students with career planning.
5. encourage students to benefit from the curriculum and extra-curricular programs.

### **D. BUILDING AND DISTRICT ADMINISTRATORS**

All building and district administrators are expected, where applicable, to:

1. promote a safe, orderly and stimulating school environment supportive of active teaching and learning.
2. ensure that students and staff have the opportunity to communicate regularly with administration, and to approach administration to resolve issues and concerns.
3. evaluate on a regular basis all instructional programs.
4. support the development of and student participation in appropriate extra-curricular activities.
5. enforce the Code of Conduct and ensure that all cases are resolved promptly and fairly.

### **E. SUPERINTENDENT**

The Superintendent of Schools is expected to:

1. promote a safe, orderly and stimulating school environment, supportive of active teaching and learning.
2. review with district 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 student discipline.
4. facilitate development of instructional programs that minimize the underlying causes of misconduct and are sensitive to student and teacher needs.
5. work with district administrators in enforcing the Code of Conduct and ensuring that all cases are resolved promptly and fairly.

## **F. BOARD OF EDUCATION**

Members of the Board of Education are expected to:

1. collaborate with all constituent groups within the school district (student, teacher, administrator, parent, school safety personnel and other school personnel) to develop a Code of Conduct that clearly defines expectations for the conduct of students, district personnel and visitors.
2. annually review and adopt the District's Code of Conduct.
3. lead by example by conducting board meetings in a professional, respectful, and courteous manner.

## **V. STUDENT DRESS CODE<sup>12</sup>**

All students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. Teachers and all other district personnel should reinforce acceptable student dress and adherence to the Dress Code.

A student's dress, grooming, and appearance shall follow, but not necessarily be limited to, the following guidelines. All district students are expected to:

1. dress in a manner that is safe, appropriate and not disruptive to the educational process.
2. not wear extremely brief and/or see-through garments. Clothing including (but not limited to) tube tops, net tops, halter tops, spaghetti straps, plunging necklines (front and/or back), bare midriff, short shorts, low-rise jeans, or any other garments that are extremely revealing are not appropriate.
3. ensure that undergarments are completely covered with outer clothing.
4. not wear pajamas to school.
5. wear footwear at all times. Footwear that is a safety hazard will not be allowed.
6. not wear hats or headwear in the school except for a medical or religious purpose.
7. not wear items that are vulgar, obscene, sexual, libelous, or denigrate others on account of race, color, religion, ancestry, national origin, sex, sexual orientation or disability.
8. not wear items that promote and/or endorse the use of alcohol, tobacco, or illegal drugs and/or encourage other illegal or violent activities.
9. not wear dangerous jewelry with pointed studs or long pocket chains.
10. not wear jewelry during activities that may result in physical injury.
11. not wear bandanas, sashes, pocket hanging cloths, beads, or any other accessory deemed by administration to be gang related.

Each building principal (or his/her designee) shall be responsible for informing all students and their parents of the student Dress Code at the beginning of the school year. Students and their parents will be notified of any revisions made to the Dress Code during the school year.

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

## VI. 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, and for the care of school facilities and equipment.

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

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

**Upon receipt of a referral, the administrator will determine specific school action based on a consideration of the student's age, the specific circumstances, frequency of occurrence, prior incidents and interventions, information from other sources, extenuating circumstances and the Code of Conduct.**

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

- A. **Engage in conduct that is disorderly.** Examples of disorderly conduct include, but are not necessarily limited to:
1. running in hallways.
  2. making unreasonable noise.
  3. using language or gestures that are profane, lewd, vulgar, or abusive.
  4. engaging in any willful act that disrupts the normal operation of the school community.
  5. trespassing. Students are not permitted in any school building, other than the one they regularly attend, without permission from the administrator in charge of the building.
  6. loitering on school or private property.
  7. parking in unauthorized areas.
  8. obstructing vehicular traffic.
  9. obstructing pedestrian traffic.

**B. Engage in conduct that is insubordinate.** Examples of insubordinate conduct include, but are not necessarily limited to:

1. lateness to class.
2. lateness for school.
3. class cutting.
4. skipping detention.
5. presence in unauthorized area.
6. leaving school without permission.
7. truancy.
8. possession and or use of contraband.
9. failure to comply with the dress code or any other school policy
10. failure to comply with the lawful and reasonable directions of any staff member.
11. defiance of a staff member's lawful and reasonable directive.
12. demonstrating disrespect towards any staff member.
13. interfering with classroom instruction in any way.

**C. Engage in conduct that is violent.** Examples of violent conduct include, but are not necessarily limited to:

1. willfully damaging, defacing, or destroying the personal property of any individual lawfully on school property.
2. willfully damaging, defacing, or destroying school district property.
3. committing an act of violence (such as but not limited to hitting, kicking, spitting, punching, scratching, and/or threatening) upon any person lawfully on school property.
4. possessing a weapon on school property or at a school sponsored event. "Weapon" (see definitions on page 5) means any dangerous instrument that can cause physical injury or death.
5. displaying what appears to be a weapon.
6. threatening to use violence, a weapon or any other instrument for a violent purpose.
7. complicity to commit arson.
8. sexual assault.
9. use of a weapon or any other instrument for a violent purpose.

**D. Engage in any conduct that endangers the safety, morals, health or welfare of others.**

Dangerous conduct is strictly prohibited on or around school property, during school-sponsored events on school grounds or off-site, or at any time during the transportation process. The District reserves the right to discipline for "off campus" behavior where such behavior by a student constitutes a threat to the health, safety, or welfare to staff, students, or volunteers within the school district, or which can be reasonably understood as urging violent conduct against such persons; or results in school

administrators' reasonable belief that the off-campus behavior creates a foreseeable risk of substantial disruption within the school setting.

Examples of such conduct include, but are not necessarily limited to:

1. misleading and/or lying to school personnel.
2. stealing school property and/or the property of others.
3. defamation.
4. discrimination.
5. harassment.
6. bullying, intimidation, or coercion.
7. hazing.
8. act of sexual harassment as defined in the district's sexual harassment policy.
9. intentional use of vulgar or abusive language directed at any person lawfully on school property or at any school-sanctioned event.
10. possession, exchanging, distribution, selling or use of lewd and/or obscene material.
11. smoking a cigarette, cigar, pipe or using chewing or smokeless tobacco.
12. possessing, consuming, selling, distributing or exchanging alcoholic beverages, controlled substances, or illegal substances, or being under the influence.
13. inappropriately using, sharing, or selling over the counter or prescription drugs.
14. possession of drug-related paraphernalia, including hash pipes, water pipes, clips, rolling papers, or any other items related to drug use.
15. gambling and/or the use of gambling for money, services, or other materials as a means of exploitation.
16. indecent exposure.
17. initiating a report warning of fire (i.e. pulling alarm) or other catastrophe without valid cause; misuse of 911; discharging a fire extinguisher; sabotaging, disabling, or destroying security devices.
18. creating an unsafe situation.
19. inciting a riot.
20. open flame – unauthorized use of a lighter, match, etc.
21. possession, exchanging, distribution, selling, or use of fireworks or other incendiary items on school property or at school functions.
22. use or possession of counterfeit items.
23. inappropriate/unsupervised use of laser pointers or similar devices.

**E. Engage in misconduct while on a school bus.**

It is crucial for students to behave appropriately while riding on district school buses, to ensure their safety and that of other passengers. Students on the bus are required to conduct themselves in a manner consistent with the District Code of Conduct. When students are not on school property or after they exit a bus, students are expected to conduct themselves in accordance with the District's Code of Conduct.

Examples of bus misconduct include, but are not necessarily limited to:

1. excessive noise, rude, annoying conduct.
2. improper boarding or departure procedures.
3. foul language or gesture.
4. spitting, littering.
5. eating, drinking.
6. hanging out of window.
7. failure to remain seated.
8. pushing, tripping, kicking, fighting.
9. any action deemed to interfere with the orderly operation and safety of the bus by the driver or other supervisor.
10. misbehavior while waiting for or after exiting a bus when not on school property.
11. any action that distracts the driver.
12. all other appropriate offenses identified in this document.
13. throwing objects inside or outside of a bus.
14. insubordination/refusing to obey the driver.
15. lighting matches/smoking on the bus.
16. destruction of property.
17. tampering with bus equipment.

**F. Engage in any form of academic misconduct.**

Students must maintain the highest standard of honesty in their schoolwork. They shall accept all responsibility for their honesty and ethics in the completion of all academic assignments required in any course of study. Students must properly format and document all academic materials and must use such format and documentary technology to identify any words that are not their own in their student reports, compositions and other written assignments which bear their name.

**If students fail to meet the responsibility for academic integrity, they subject themselves to possible sanctions such as grade reduction, test failure, disqualification of an exam, course failure, removal from the course, and/or suspension.**

Examples of academic misconduct include, but are not necessarily limited to:

1. plagiarism.
2. cheating.
3. body language or gestures to communicate responses.
4. wrongful possession or use of academic material.
5. forgery or alteration of academic material.
6. theft and/or destruction of academic material or records.
7. use of any electronic device that would compromise academic integrity.
8. intentional alteration of materials or records.

**G. Engage in any conduct that violates the use of electronic equipment or the District Computer Policy.**

Examples of such use include, but are not necessarily limited to:

Misusing computer/electronic communications, including any unauthorized use of computers, software, or internet/intranet account; accessing inappropriate websites; or any other violation of the District's Acceptable Use Policy.

1. Policy 7314: Student Use of Computerized Information Resources (Acceptable Use Policy).

Students who engage in unacceptable use of computerized information resources may lose access in accordance with applicable due process procedures, and may be subject to further discipline under the District's Code of Conduct. Student data files and other electronic storage areas shall be considered school district property subject to control and inspection, with no expectation of privacy.

The District's Acceptable Use Policy and accompanying Regulations will be disseminated to parents and students in order to provide notice of the school district's requirements, expectations, and students' obligations when accessing district computer systems.

Student use of school district computers is conditioned upon written agreement by all students and their parents/guardians that student use will conform to the requirements of this policy and any regulations adopted to ensure acceptable use of district computer systems and/or networks.

2. Middletown Board Policy 8271 The Children's Internet Protection Act: Internet Content Filtering/Safety Policy.

In compliance with this Internet Safety Policy as well as the District's Acceptable Use Policy, unauthorized access (including so-called "hacking") and other unlawful activities by minors are prohibited by the District; and student violations of such policies may result in disciplinary action.

The District has adopted and will enforce the Internet Filtering Safety Policy that ensures the use of technology protection measures (i.e., filtering or blocking of access to certain material on the internet) on all district computers with internet access. Such technology protection measures apply to internet access by both adults and minors with regard to visual depictions that are obscene, child pornography, or, with respect to the use of computers by minors, as considered harmful to such students. Appropriate monitoring of online activities of minors, as determined by the building/program supervisor, will be enforced to ensure the safety of students when accessing the internet.

The determination of what is "inappropriate" for minors shall be determined by the District and/or designated school official(s). It is acknowledged that the determination of such "inappropriate" material may vary depending upon the circumstances of the situation and the age of the students involved in online research.

The District will “block” or “filter” internet access for both minors and adults to visual depictions that are obscene, child pornography, or deemed “harmful to minors” in accordance with the Children’s Internet Protection Act. Furthermore, in accordance with law, the District Technology Director may access all staff and student files, e-mail, and electronic storage areas to ensure system integrity and that all users are complying with the requirements of CIPA and district policy and procedures. Legal action may also be initiated as deemed necessary by the Superintendent or designee.

## **VII. REPORTING VIOLATIONS OF THE CODE OF CONDUCT THAT CONSTITUTE A CRIME**

Any student who observes another student in possession of a weapon, alcohol, or illegal substance on or off school property or at a school function shall report this information immediately to *any school personnel, such as* a building security aide, a teacher, a School Resource Officer (SRO), a building administrator or the Superintendent. Any weapons, alcohol or illegal substances found shall be confiscated immediately, followed by notification of the parent of the student involved and the appropriate disciplinary action taken, up to and including permanent suspension and referral for prosecution.

The building administrator or designee must notify the appropriate local law enforcement agency of those Code violations that constitute a crime and substantially affect the order or security of a school<sup>13</sup> as soon as practical, but in no event later than the close of business the day the building administrator or designee learns of the violation. The notification may be made by telephone, followed by written documentation. The notification must identify the student(s) and explain the conduct that violated the Code of Conduct and constituted a crime.

## **VIII. 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 and impartial. School personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' ability to grow in self-discipline.

Disciplinary action, when necessary, will be firm, fair and consistent so as to be the most effective in changing and improving 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.

As a general rule, discipline will be progressive. This means that a student's first violation will usually merit a lesser penalty than subsequent violations. Individualized behavior management plans may preclude a gradual process.

If the conduct of a student is related to a disability or suspected disability, the student shall be referred to the Committee on Special Education and discipline, if warranted, shall be administered consistent with the separate requirements of this 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.

#### **A. PENALTIES**

Students who are found to have violated the District's Code of Conduct may be subject to the following penalties, either alone or in combination with one another.

- Refer to support personnel.
- Loss of privilege(s).
- Loss of parking permit.
- Detention.
- Parental notification, written or verbal, and/or conference.
- Suspension from extra-curricular activities.
- Suspension from transportation services.
- In-school suspension.
- Short-term suspension (five days or less) out of school.
- Superintendent's hearing.
- Long-term suspension (more than five days) out of school by Superintendent, Board of Education.
- Permanent suspension from school by Superintendent, Board of Education.
- Police notification.
- Confiscation of contraband item.
- Restitution for damages.
- Mediation.

**Administrative action will be consistent with the student's right to due process.**

#### **B. PROCEDURES**

In accordance with the student's right to due process in all cases requiring administrative action, the student and the parent will be informed of the alleged misconduct, and the circumstances surrounding the alleged misconduct will be investigated. All students will have an opportunity to present their version of the facts prior to the administration of any consequences.

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

**1. After-school Detention**

Teachers and building administrators may use after school detention as a penalty for student misconduct in situations where removal from the classroom or suspension would be inappropriate. Detention will be imposed as a penalty only after the student's parent has been notified to confirm that there is no parental objection to the penalty and the student has appropriate transportation home following detention.

**2. Suspension from transportation**

If a student does not conduct himself/herself properly on a bus, the bus driver is expected to bring such misconduct to the building administrator's attention. Students who become a serious disciplinary problem may have their riding privileges suspended by the building administrator or the Superintendent. In such cases the student's parent will become responsible for seeing that his or her child gets to and from school safely. Should the suspension from transportation amount to a suspension from attendance, the district will make appropriate arrangements to provide for the student's education as appropriate.

A student subjected to a suspension from transportation is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the building administrator to discuss the conduct and the penalty involved.

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

A student subjected to a suspension from athletic participation, extra-curricular activities or other privileges is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent(s) will be provided with a reasonable opportunity for an informal conference with the official imposing the suspension to discuss the conduct and the penalty involved.

**4. In-school Suspension**

The Board recognizes that the school must balance the need of students to attend school with the need for order in the classroom to establish an environment conducive to learning. As such, the Board authorizes building administrators and the Superintendent to place students who would otherwise be suspended from school as the result of a

Code of Conduct violation in in-school suspension. In-school suspension is the temporary removal of students from the classroom to another area of the school building designated for such a suspension where students will receive substantially equivalent, alternative education or work on assignments provided by referring teacher(s). The in-school suspension teacher will be a certified teacher.

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

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

A disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom. It may be necessary for a teacher to remove a disruptive student from the classroom to ensure that the other students continue to learn.

Step 1 - A classroom teacher may remove a student from his or her class for up to two days if the teacher determines that the student is disruptive.

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

If the student does pose a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain to the student why he or she was removed from the classroom and give the student a chance to present his or her version of the relevant events within 24 hours.<sup>14</sup> The teacher is responsible for providing the student with any academic work missed during the period of removal.

Step 2 - The teacher must complete a district-established referral form and meet with the building administrator as soon as possible, but no later than the end of the school day, to explain the circumstances of the removal and to present the referral forms. If the building administrator is not available by the end of the same school day, the teacher must leave the form with the secretary and meet with the administrator prior to the beginning of classes on the next school day.

Step 3 - Within one school day after the student's removal from class by the teacher, the building administrator, must notify the student's parent, in writing, that the student has been removed from class and why. The notice must also inform the parent that he or she has the right, upon request, to meet informally with the building administrator (or the teacher if so designated by the administrator) to discuss the reasons for the removal and behavior modification strategies to remedy the cause for the removal. The written notice must be provided by personal delivery, express mail delivery, or some other means that is reasonably calculated to assure receipt of the notice at the last known address of the parent by the day after the student's removal. Where possible, notice should also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents. The building administrator may require the teacher who ordered the removal to attend the informal conference.

Step 4 - If at the informal meeting the student denies the charges, the building administrator or teacher must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. The informal meeting must be held within 48 hours of the student's removal. The timing of the informal meeting may be extended by mutual agreement of the parent, teacher and building administrator.

### **Overturning Teacher Removal of Disruptive Students**

The building administrator may overturn the removal of the student from class if he/she finds any of the following:

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

The building administrator must make a determination as to whether to overturn the removal before the close of business on the day after the day of the informal hearing. No student removed from the classroom by the classroom teacher will be permitted to return to the classroom until the administrator makes a final determination, or the period of removal expires, whichever is less. At the teacher's discretion, the removal may be rescinded prior to the expiration of the full period of removal.

Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he or she is permitted to return to the classroom.

Each teacher must keep a complete log (on a district provided form) for all cases of removal of students from his/her class. The building administrator must keep a log of all removals of students from class. Removal of a student with a disability may, under certain circumstances, constitute a change in the student's placement.<sup>15</sup> Accordingly, no teacher may remove a student with a disability from his or her class until he or she has verified with the building administrator or the chairperson of the Committee on Special Education that the removal will not violate the student's rights under state or federal law or regulation.

Nothing in this section of the Code abridges the customary right or responsibility of a Principal to suspend a student. Further, nothing in this Code abridges the customary right and responsibility of a teacher to manage student behavior in the classroom. Short-term, time-honored classroom management techniques such as "time out" in an elementary classroom or in an administrator's office or sending students briefly to an alternate location are not considered removals from class.<sup>16</sup>

## **6. Suspension from School**

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

The Board retains its authority to suspend students, but places primary responsibility for the suspension of students with the Superintendent and the building principals.<sup>17</sup>

Any staff member may recommend to the Superintendent or Principal that a student be suspended. All staff members must immediately report and refer a violent student to a building administrator or the Superintendent for a violation of the Code of Conduct. All recommendations and referrals shall be made in writing unless the conditions underlying the recommendation or referral warrant immediate attention. In such cases a written report is to be prepared as soon as possible by the staff member recommending the suspension.

The Superintendent or Principal, upon receiving a recommendation or referral for suspension or when processing a case for suspension, shall gather the facts relevant to the matter and record them for subsequent presentation if necessary.

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

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

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

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

After the telephone or in-person conference, the Principal shall promptly advise the parent(s) in writing of his or her decision. The Principal shall advise the parent(s) that, if they are not satisfied with the decision and wish to pursue the matter, they must file a written appeal to the Board with the District Clerk within five business days of the date of the decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the Board may be appealed to the Commissioner of Education within 30 days of the decision.<sup>18</sup>

### **b. Long Term (more than five days) Suspension from School**

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

The Superintendent shall personally hear and determine the proceeding, or may designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the Superintendent.

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

### **c. Permanent Suspension**

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

## **C. MINIMUM PERIODS OF SUSPENSION**

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

Any student, other than a student with a disability, found guilty of bringing a weapon onto school property will be subject to suspension from school for at least one calendar year (Federal Gun-Free Schools Act of 1994). Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law §3214. The Superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the penalty, the Superintendent may consider the following:

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

The Superintendent or his/her designee must refer any student who is found to be in possession of a weapon to the appropriate law enforcement agency for investigation.<sup>19</sup>

In addition, the Enlarged City School District of Middletown complies with the requirements of the Federal Gun-Free Schools Act of 1994, 20 USC §8921.

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

**2. Students who commit violent acts other than bringing a weapon to school**

Any student, other than a student with a disability, who is found to have committed a violent act, other than bringing a weapon onto school property, shall be subject to suspension from school for at least five days. If the proposed penalty is the minimum five-day suspension, the student and the student's parent(s) will be given the same notice and opportunity for a hearing given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parent(s) will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent or his/her designee has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

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

Any student, other than a student with a disability, who is repeatedly substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom, will be suspended from school for at least five days. For purposes of this

Code of Conduct, "repeatedly substantially disruptive" means engaging in conduct that results in a student's suspension and/or removal from classes (pursuant to Education Law section §3214 [3-a] and this Code) on four or more occasions during a semester. If the proposed penalty is the minimum five-day suspension, the student and the student's parent(s) will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parent(s) will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The Superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the Superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

## **IX. ALTERNATIVE INSTRUCTION<sup>20</sup>**

When a student is suspended and is of compulsory attendance age, immediate steps shall be taken to provide alternative instruction which is of an equivalent nature to that provided in the student's regularly scheduled classes. Although the alternative instruction need not match in every respect the instructional program previously offered to the student, it must be sufficient so that the student may complete his/her work.

## **X. DISCIPLINE OF STUDENTS WITH DISABILITIES<sup>21</sup>**

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

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

### **A. AUTHORIZED SUSPENSIONS OR REMOVALS OF STUDENTS WITH DISABILITIES**

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

“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 pursuant to §201.8 of CR.<sup>22</sup>

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

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

The Board, the District Superintendent of Schools, or a building principal 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.

1. The Superintendent may order the placement of a student with a disability into an IAES (interim alternative educational setting), another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed under the paragraph above for the same behavior, if the Superintendent determines that the student has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non-disabled students would be subject to suspension for the same behavior.
2. The Superintendent may order additional suspensions of not more than 10 consecutive school days in the same school year for separate incidents of misconduct, as long as those removals do not constitute a change of placement.
3. The Superintendent 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 school days, if the student carries or possesses weapons, uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function, or has inflicted serious bodily injury upon another person while at school or on school premises (20 USC §1415).

4. Subject to specified conditions required by both federal and state law and regulations, an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 days at a time, if maintaining the student in his or her current educational placement poses a risk of harm to the student or others.

## **B. CHANGE OF PLACEMENT RULE**

A disciplinary change in placement means a suspension or removal from a student's current education placement that is either:

1. more than 10 consecutive school days; or
2. a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they cumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.

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

However, the District may impose a suspension or removal, which would otherwise result in a disciplinary change in placement, based on a pattern of suspensions or removals if the CSE has determined that the behavior was not a manifestation of the student's disability, or the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances, or the student has inflicted serious bodily injury upon another person while at school or on school premises.

## **C. SPECIAL RULES REGARDING THE SUSPENSION OR REMOVAL OF STUDENTS WITH DISABILITIES**

The District's Committee on Special Education shall conduct functional behavioral assessments to determine why a student engages in a particular behavior, and develop or review behavioral intervention plans whenever the district is first suspending or removing a student with a disability for more than 10 school days in a school year or imposing a suspension or removal that constitutes a disciplinary change in placement, including a change in placement to an IAES for misconduct involving weapons, illegal drugs or controlled substances.

If, subsequently, a student with a disability who has a behavioral intervention plan and who has been suspended or removed from his or her current educational placement for more than 10 school days in a school year is subjected to a suspension or removal that does not constitute a disciplinary change in placement, the members of the CSE shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

If one or more members of the CSE believe that modifications are needed, the school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.

The District's CSE shall conduct a Manifestation Determination Review of the relationship between the student's disability and 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. 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.

The parents of a student who is facing disciplinary action, but who has not been determined to be eligible for services under IDEA and Article 89 at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and state statutory and regulatory criteria, the school district is deemed to have had knowledge that their child was a student with a disability before the behavior precipitating disciplinary action occurred. If the district is deemed to have had such knowledge, the student will be considered a student presumed to have a disability for discipline purposes.

The Superintendent, building principal or other school official imposing a suspension or removal shall be responsible for determining whether the student is a student presumed to have a disability.

A student will not be presumed to have a disability for discipline purposes if, upon receipt of information supporting a claim that the district had knowledge the student was a student with a disability, the district either:

conducted an individual evaluation and determined that the student is not a student with a disability, or

determined that an evaluation was not necessary and provided notice to the parents of such determination, in the manner required by applicable law and regulations.

If there is no basis for knowledge that the student has 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.

The district shall provide parents with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his/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.

During any period of suspension or removal, including placement in an 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 HEARINGS**

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:

1. The district requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his or her current educational placement, or during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his or her current educational placement during such proceedings.
2. The parent requests such a hearing from a determination that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding placement, including but not limited to any decision to place the student in an IAES.
3. During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES for behavior involving weapons, illegal drugs or controlled substances, or on grounds of dangerousness, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing officer or until expiration of the IAES placement, whichever occurs first, unless the parents and the district agree otherwise.

4. If the school personnel propose to change the student's placement after the expiration of a 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.
5. An expedited due process hearing shall be completed within 15 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. The district may report a crime committed by a child with a disability to appropriate authorities, and such action will not constitute a change of the student's placement.
2. The Superintendent shall ensure that copies of the special education and disciplinary records of a student with disabilities are transmitted for consideration to the appropriate authorities to which a crime is reported only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (34 CFR §300.535).

#### **F. PERSONS IN NEED OF SUPERVISION (PINS) PETITIONS**

Where a student with a disability is not attending school or is ungovernable/incorrigible, the Department of Probation requires that the District conduct a manifestation determination review to determine whether the student's behavior is intentional and ongoing and not related to the student's disability before referring the matter for petition (9 NYCRR Part 357).

### **XI. CORPORAL PUNISHMENT<sup>23</sup>**

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

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

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

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

## **XII. STUDENT SEARCHES AND INTERROGATIONS**

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

In addition, the Board authorizes school officials (the Superintendent, building administrators, school nurses and building security aides) to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the district Code of Conduct. An authorized school official may conduct a search of a student's belongings, including but not limited to book bags, vehicles parked on school property, etc., as long as the school official has a reasonable cause for the search.

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

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

Whenever practical, 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<sup>24</sup>**

Students have no reasonable expectation of privacy with respect to the above locations; school officials retain complete control over them. This means that student lockers, desks and other school storage places may be subject to search at any time by school officials, without prior notice to students and without their consent.

**B. STRIP SEARCHES<sup>25</sup>**

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

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

In every case, the school official conducting a strip search must have probable cause -- not simply reasonable cause -- to believe the student is concealing evidence of a violation of law or the district Code of Conduct. In addition, before conducting a strip search, the school official must consider the nature of the alleged violation, the student's age, the student's record and the need for such a search.

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

**C. DOCUMENTATION OF SEARCHES**

The building administrator 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 informant(s).
4. Purpose of search (that is, what item(s) were being sought).
5. Type and scope of search.
6. Person conducting search and his or her title and position.
7. Witnesses, if any, to the search.
8. Time and location of search.
9. Results of search (that is, what item(s) were found)
10. Disposition of items found.
11. Time, manner and results of parental notification.

The building administrator shall be responsible for the custody, control, and disposition of any illegal or dangerous item(s) taken from a student. The building administrator shall retain control of the item(s), unless the items are turned over to the police. The building administrator shall be responsible for personally delivering dangerous or illegal item(s) to police authorities.

**D. POLICE INVOLVEMENT IN SEARCHES AND INTERROGATIONS OF STUDENTS**

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

1. a search or an arrest warrant.
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 building administrator shall first try to notify the student's parent to give the parent the opportunity to be present during the police questioning or search. If the student's parent cannot be contacted prior to the police questioning or search, the parent shall be informed of the questioning or search, in writing, by the building administrator as soon thereafter as possible. The building administrator 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.

**E. CHILD PROTECTIVE SERVICES INVESTIGATIONS**

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

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

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

### **XIII. VISITORS TO THE SCHOOLS**

The Board encourages parents and other district citizens to visit the district's schools and classrooms to observe the work of students, teachers and other staff. Since schools are a place of work and learning, however, certain limits must be set for such visits. The building administrator is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the schools:

1. Anyone who is not a regular staff member or student of the school will be considered a visitor.
2. All visitors to the school must report to the reception desk, sign in to the visitors' register, and present appropriate identification to security staff. A visitor's identification badge will be issued and must be worn at all times while in the school or on school grounds. Visitors reporting to building destinations other than school offices will be escorted by school personnel. Upon leaving the building, visitors need to sign out in the visitors' register and return the identification badge.
3. Visitors attending after-school, evening, or weekend school functions that are open to the public, such as concerts or public gatherings, are not required to register.
4. Teachers are expected not to take class time to discuss individual matters with visitors.
5. Any unauthorized person on school property will be reported to the building administrator. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.
6. All visitors are expected to abide by the rules for public conduct on school property contained in this Code of Conduct.

#### **XIV. PUBLIC CONDUCT ON SCHOOL PROPERTY**

The District is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on school property and at school functions.

The restrictions on public conduct on school property and at school functions contained in this Code are not intended to limit freedom of speech or peaceful assembly. The District recognizes that free inquiry and free expression are indispensable to the objectives of the District. The purpose of this Code is to maintain public order and prevent abuse of the rights of others.

##### **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, tobacco products, or be under the influence of such substances on school property or at a school function.
10. possess or use firearms or other weapons including but not limited to air guns, pistols, rifles, shotguns, ammunition, explosives, box cutters, knives, gas canisters, pepper spray or other noxious spray while in or on school property or at a school function, except in the case of law enforcement officers or except as specifically authorized by the school district.
11. loiter on or about school property.
12. gamble on school property or at school functions.
13. refuse to comply with any lawful order of identifiable school district officials performing their duties.
14. willfully incite others to commit any of the acts prohibited by this Code.
15. violate any federal or state statute, local ordinance or board policy while on school property or while at a school function.

## **B. PENALTIES**

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

1. Visitors' authorization, if any, to remain on school grounds or at the school function shall be withdrawn and they shall be directed to leave the premises. If they refuse to leave, they shall be subject to ejection.
2. Students shall be subject to immediate ejection and to disciplinary action as the facts may warrant, including any of the penalties listed in the "Penalties" section of this Code, in accordance with the due process of law requirements.
3. Tenured faculty members shall be subject 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 shall be subject to immediate ejection 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 subdivisions 3 and 4 shall be subject to immediate ejection and to warning, reprimand, suspension or dismissal as the facts may warrant in accordance with any legal rights they may have.

## **C. ENFORCEMENT**

The building administrator or designee shall be responsible for enforcing the conduct required by this Code. The Superintendent may designate other authorized district staff to take action consistent with the Code.

When the Superintendent or his/her designee observes or is informed of an individual engaging in prohibited conduct, which in his or 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.

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

## **XV. DISSEMINATION AND REVIEW**

### **A. DISSEMINATION OF THE CODE OF CONDUCT**

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

1. providing copies of a summary of the Code to all students at the beginning of each school year.
2. mailing a summary of the Code written in plain language to all parents of district students before the beginning of the school year and making this document available later upon request.
3. providing all current teachers and other staff members with a copy of the complete Code and a copy of any amendments to the Code as soon as practicable after adoption.
4. providing all new employees with a copy of the complete Code when they are first hired.
5. making copies of the complete Code available via hard copy or on the District website for students, parents and other community members.

The District will provide in-service education for district staff members to ensure effective implementation of the Code. The Superintendent may solicit the recommendations of the district staff, particularly teachers and administrators, regarding in-service programs pertaining to the management and discipline of students.

### **B. REVIEW OF THE CODE OF CONDUCT<sup>26</sup>**

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

Before finalizing 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.

The Code of Conduct and any amendments to it will be filed with the Commissioner of Education no later than 30 days after adoption.

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## ANNOTATIONS

<sup>1</sup> This Code of Conduct has been drafted to meet the requirements of the Project SAVE legislation (Education Law §2801) and Section 100.2(1) of the Commissioner's regulations.

The Board has the exclusive authority to adopt and amend the Code of Conduct. However, the law required 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.

<sup>2</sup> This district's Code of Conduct begins with a clear statement as to the purpose of the Code and the district's commitment to establishing, maintaining, and when necessary restoring, a safe and orderly school environment.

<sup>3</sup> This definition of "disruptive student" is taken from Education Law §3214(2-a)(b).

<sup>4</sup> This Code of Conduct defines "parent" broadly to include guardians. This broadened definition has been used to avoid having to state parent/guardian throughout the entire document.

<sup>5</sup> This definition of "school property" is taken from Education Law §2801.

<sup>6</sup> This definition of "school function" is taken from Education Law §2801(1).

<sup>7</sup> This 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."

<sup>8</sup> 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 "except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis." Section 3214 (3)(d) of the Education Law has been amended to comply with the federal law.

<sup>9</sup> Many of the items in the list of weapons come from Penal Law §265.01:

A person is guilty of criminal possession of a weapon in the fourth degree when:

(1) He possesses any firearm, electronic dart gun, electronic stun gun, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shirken or "Kung Fu star"; or

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(2) He possesses any dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another.

<sup>10</sup> While Education Law §2801 does not require that a district's Code of Conduct contain a Bill of Rights and responsibilities of students, the draft Commissioner's regulations do include this requirement. Specifically, the draft 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 100.2(l)(2)(ii)(o) and (p)).

<sup>11</sup> 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 and parents" (§2801(2)(a)). This section of the Code of Conduct sets forth certain specific roles for parents, teachers, guidance counselors, building and district administrators, the Superintendent and the Board related to maintaining safe, orderly schools. The lists obviously do not contain all that is expected of these groups.

<sup>12</sup> 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, health, safety, or full participation in school activities, such as in science laboratories and physical education classes. However, clothing worn to make a religious or

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political statement cannot be banned, unless it is disruptive of the educational process, lewd or offensive (*Tinker v. Des Moines Independent School District*, 93 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)).

<sup>13</sup> 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 280(2)(1) 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 drafted to require that principals notify local law enforcement authorities of only those Code violations that substantially affect the order of 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.

<sup>14</sup> The SAVE legislation establishes timelines for certain notice and informal hearing requirements related to a teacher's removal of a student from class. These timelines are measured in 24, 48, and 72-hour periods, rather than one, two or three days. This Code of Conduct adopts a practical interpretation of these periods to acknowledge the practical difficulties schools would face to schedule and hold informal hearings on weekends, holidays or during school vacations.

<sup>15</sup> 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 or 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.

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<sup>16</sup> Neither the SAVE legislation nor the draft 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 a 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.

<sup>17</sup> The SAVE legislation gives building principals the authority to suspend students for five days or less (§3214 (3)(a)). The prior law allowed principals this authority only if the Board 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(D)(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.

<sup>18</sup> 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 in *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 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.

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 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

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appeals of suspensions of five days or less, to make the process for filing appeals uniform and therefore easier for administrators to apply.

<sup>19</sup> 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 Enlarged City School District of Middletown refers students found guilty of bringing a weapon to school to Orange County Family Court.

<sup>20</sup> The SAVE legislation does not define the phrase, "continued educational programming" or how it differs from alternative educational instruction that must be given to students who have been suspended (compare §3214 (3-a) and §3214 (3) (e)). For purposes of the Code, the terms are treated in the same manner.

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 Dep't 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 of Suspected of Having a Handicapping Condition*, 31 EDR 42(1991); *Appeal of Ackert*, EDR 31 (1990); *Matter of Malpica*, 20 EDR 365 (1981)).

<sup>21</sup> This 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 504 of the Rehabilitation Act.

<sup>22</sup> CR 201.8 Authority of impartial hearing officer to order a change in placement to an IAES in a dangerous situation.

(a) An impartial hearing officer appointed pursuant to Education Law section 4404(1), in an expedited due process hearing conducted pursuant to section 201.11 of this Part, may order a change in placement of a student with a disability to an appropriate interim alternative educational setting (IAES) for not more than 45 school days, if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or others.

(b) The procedures established in this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or others.

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(c) A school district shall not be required to commence disciplinary action against a student with a disability as a prerequisite for initiating an expedited due process hearing to obtain an order of an impartial hearing officer pursuant to this section.

(d) A determination that the student's behavior is a manifestation of the student's disability shall not preclude an impartial hearing officer from ordering a change in placement to an IAES pursuant to this section.

<sup>23</sup> This 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); 100.2 (1) (3) (i)). Neither the SAVE legislation nor the draft 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.

<sup>24</sup> 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)). Each district should make certain to include in its Code of Conduct a provision stating 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 (NYS Bar Association).

<sup>25</sup> A strip search is highly intrusive. School districts should be aware that as the level of intrusiveness of a search increases, a higher standard of suspicion is required. The United States Court of Appeals for the Second Circuit has held that a school official who conducts a strip search of a student must have probable cause (*M.M. v. Anker*, 607 F2d 588 (2d Cir. 1979)).

<sup>26</sup> Education Law Article 55 §2801(5)(a) states that the Board of Education shall annually review and update the district's code of conduct if necessary. It further states that the school district is authorized to establish a committee to facilitate the review of its code of conduct, and that any revision may occur after at least one public hearing.