

# Poughkeepsie City School District

## Code of Conduct

### INTRODUCTION

The Poughkeepsie City School District is committed to maintaining high standards of education for students in the schools. Because the District believes that order and discipline are essential to being educated effectively, the District is also committed to creating and maintaining high behavioral standards and expectations. An orderly educational environment requires that everyone in the school community play a role in contributing to an effective environment. It also requires the development and implementation of a code of discipline that clearly defines individual responsibilities and provides for appropriate disciplinary options and responses.

The District believes that order and discipline must be a shared responsibility between school, home and community. This Code of Conduct was developed in collaboration with teacher, administrator and parent organizations, school safety personnel and other Board-approved school personnel. Finally, it is our belief that, to be effective, such a code must:

- identify, recognize and emphasize acceptable behavior;
- identify, recognize and prevent unacceptable behavior;
- promote self-discipline;
- consider the welfare of the individual, as well as that of the school community as a whole;
- promote a close working relationship between parents/guardians and the school staff;
- distinguish between minor and serious offenses, as well as between first time and repeated offenses;
- provide disciplinary responses that are appropriate to the misbehavior;
- outline procedures to ensure that it is administered in a way that is fair, firm, reasonable, and consistent;
- protect every person's right to a fair hearing;
- identify due process rights for a student accused of misconduct;
- comply with the provisions of federal, state and local laws, as well as the guidelines and directives of the New York State Department of Education and the Board of Regents.

A school's primary concern in establishing a code of discipline is to enable our young people to become responsible, respectful and caring citizens within the school and community settings. The Board of Education is responsible for ensuring that essential regulations are established and adequate discipline is maintained in the operation of the schools to effectively promote safety, as well as the social and educational growth of the students. Administrative regulations are developed and enforced by the school administration and staff.

The parent/guardian is expected to assume primary responsibility for control of his or her child. The parent/guardian may be called upon to actively cooperate with the school in providing the necessary structure to promote his or her child's social and educational growth. To this end, a high degree of parent-school communication will be fostered by the school.

Disciplinary measures available to the administration of each school building may include conferences, detention, in-school suspension, out-of-school suspension, and administrative hearings with the designated hearing officer. Administrative hearings can result in out-of-school suspensions of more than five days and, in particularly serious cases, a student may be permanently suspended from school.

### DEFINITIONS

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

**Disruptive Student** — an elementary or secondary student under the age of 21 who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

**Parent** — the parent, guardian or person in parental relation to a student.

**Removal** — the act of a teacher in discontinuing the presence of the student in his/her classroom.

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

**School Function** — any school sponsored extra-curricular, co-curricular or other event or activity.

**Substantially Disruptive** — shall mean that the course of instruction has to be discontinued such that it significantly breaks the continuity of the lesson, in order to address the disruptive conduct of the student.

**Substantially Interferes** — shall mean that the student has been insubordinate to the teacher in the presence of the class and has failed to obey the teacher's directives to cease and desist.

**Suspension** — the act of a Building Principal (or acting building principal designated by Board Resolution), Superintendent of Schools, District BOCES Superintendent or Board of Education in discontinuing, the presence of a student from his/'her regular classes.

**Violent Student** — an elementary or secondary student under the age of 21 who:

- commits an act of violence upon a school employee, or attempts to do so.
- commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property, or at the school function, or attempts to do so.
- possesses, while on school property, or at a school function, what appears to be a weapon or other dangerous instrument capable of causing death or serious bodily injury.
- displays, while on school property, or at a school function, what appears to be a weapon or other dangerous instrument capable of causing death or serious bodily injury.
- threatens, while on school property, or at a school function, to use a weapon or other dangerous instrument capable of causing death or serious bodily injury.
- knowingly and intentionally damages or destroys the personal property of an school employee or any person lawfully on school property or at a school function.
- knowingly and intentionally damages or destroys school district property.

**Weapon** - a firearm as defined in the Gun-Free Schools Act (18 USC §92 1) (any firearm, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of such firearm; any firearm muffler or silencer; or any destructive device), as well as any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

**Bullying** — The act of threatening, stalking, coercing or intimidating, verbally, physically, in writing, by gesture or through electronic communication, the well-being, health, safety, freedom, or reputation of any person, that takes place on school property, at any school-sponsored function or on a school bus, or that takes place off of school grounds but that is designed to or has the effect of interfering with a student's ability to attend school and/or to be educated in a safe, non-hostile environment.

**Hazing** — Any action, conduct or activity engaged in by one person acting alone or with others, either on or off-campus, directed against a member of the school community that endangers the mental or physical health or safety of that person, for the purported purpose of being initiated into, becoming a member of, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team, including, but not limited to:

- any activity that induces, causes or requires the student to perform a duty or task that involves a violation of the Penal Code and/or the Student Code of Conduct;
- any activity involving the consumption of food, liquid, alcoholic beverage, liquor, drug or other substance which subjects the student to an unreasonable risk of harm or which adversely affects the mental or physical health or safety of the student;
- any activity, such as sleep deprivation or exposure to the elements that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;
- any type of physical contact, either person to person, or object to person, that causes, is intended to cause, or has the ability to adversely affect the mental or physical health or safety of the student.

### **STUDENT'S RIGHTS AND RESPONSIBILITIES**

Students in the public schools of New York State have a right to a free, appropriate education if they are between the ages of five and 21 years (or until the child receives a high school diploma, whichever comes first). All students in this state between the ages of six and the school year through which he or she becomes 16 are required by law to regularly attend school, either in the public schools, non-public schools that are approved for equivalency of instruction by the appropriate school authorities, or in the home in accordance with the Regulations of the Commissioner of Education.

The right to a free public school education extends to all students, including those with disabilities. However, this right is not unconditional. As long as due process of law requirements are met, a student may be removed from the classroom, suspended temporarily or suspended permanently from school. Only students within the compulsory education ages (age six through the school year in which the student turns 16) are entitled to alternative equivalent instruction following suspension.

The district is committed to maintaining public order on school property and to provide a program of enforcement, while at the same time, protecting freedom of assembly within the school system. The district expects each student to conduct himself or herself in a manner which will create an appropriate atmosphere so that students may learn and thrive educationally to their abilities. Students are expected to understand that they have a responsibility to behave in an orderly and respectful manner. To this end, each student shall also be responsible for conducting himself or herself so as to avoid the behaviors which could lead to being disciplined.

The rights assured by the New York State Constitution and Education Law as well as the policies of this district will be fully recognized and applied. In addition to the rights referenced above, students in this district are specifically afforded the following rights:

### **RIGHTS OF STUDENTS**

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

1. Take part in all district activities on an equal basis regardless of race, color, creed, genetic predisposition, carrier status, marital status, national origin, religion, gender or sexual orientation or disability.
2. Present their version of the relevant events to school personnel authorized to impose a disciplinary penalty in connection with the imposition of the penalty.
3. Access school rules and, when necessary, receive an explanation of those rules from school personnel.

**1. Student Expression** - Students shall be allowed the opportunity for the free expression of ideas consistent with rights established by the federal and state constitutions. However, a student's freedom is subject to limitation in that the constitutional protections will not extend to libelous, slanderous, vulgar, lewd, indecent or obscene words or images or to words or images which by their very use incite others to damage property or physically injure persons. Furthermore, speech which materially and substantially disrupts the work and discipline of the school may be subject to limitation.

**A. School newspapers:** Participation in the process of publishing school newspapers affords students an opportunity to learn how to report the news events of the school as well as the sincere expression of all facets of student opinion. Any student newspapers and/or publications which are paid for by the district and/or produced under the direction of a teacher as part of the school curriculum are not considered a public forum. The following are guidelines for curricular school newspapers and other school newspapers:

**1. Curricular School Newspapers:** Any school- sponsored newspaper which is part of the adopted English or Journalism -curriculum, shall be under the direction of an official advisor who shall exercise editorial control over style and content of the student speech within the context of legitimate pedagogical concerns and responsible journalism.

a. All materials shall be subject to prior review by the official advisor and by the Building Principal. Their decisions regarding production and publication shall be made within two (2) days.

b. Either the advisor to such school newspaper or the Building Principal, as well as the Superintendent of Schools or Board of Education, may prohibit the publication of curricular school newspaper materials which are found to:

i. be inappropriate (e.g., ungrammatical, poorly written, writing which is inadequately researched, biased, prejudiced, obscene, vulgar, profane or libelous);

ii. be unsuitable for the level of maturity of the intended audience(s);

iii. may substantially disrupt the work of the school;

iv. impinge upon privacy rights of other students or their families or social relations;

v. advocate conduct inconsistent with shared values of civilized social order (e.g., materials which promotes drug or alcohol use, dangerous behavior, etc.);

vi. associate the school with any position other than neutrality on matters of political controversy or religion; and/or

vii. erroneously attribute the views of the individual author to the school.

c. Appeals procedure: In the event that the newspaper advisor or another school official renders a decision that certain material shall not be printed in such school newspaper, the student shall be entitled to a review of that decision by the Superintendent of Schools, whose decision shall be final in this matter and shall be rendered within three (3) days of the initial decision to prohibit such publication.

**2. Other School Newspapers:** The following guidelines shall apply to materials published in our school newspaper(s) which are not part of the adopted English or Journalism curriculum:

a. All materials shall be subject to prior review by the official advisor of each school newspaper and by the Principal of the building where the newspaper is published. Their decision regarding publication shall be made within two (2) days.

b. Either the advisor to the school newspaper or the Building Principal, as well as the Superintendent of Schools or Board of Education, may prohibit the publication of school newspaper materials or articles to the extent that they:

- i. clearly endanger the health, safety or welfare of students;
- ii. imminently threaten to disrupt the educational process of the school;
- iii. constitute material which is libelous or obscene; and/or
- iv. threaten any person or group- in the school or advocate discrimination on the basis of disability, sexual orientation, genetic predisposition, carrier status, race, religion, age, sex, marital status or national origin.

c. Appeals Procedure: In the event that the newspaper advisor or another school official renders a decision that certain material shall not be printed in the school newspaper(s), the student shall be entitled to a review of that decision by the Superintendent of Schools, whose decision shall be final in this matter and shall be rendered within three (3) days of the initial decision to prohibit such publication.

**B. Non-School Publication and Materials:** Publications or materials other than the official school newspaper(s) may be distributed by students at locations beyond the limits of the school grounds and on occasions other than at school- sponsored activities without the authorization of school officials.

To distribute other than school newspapers on school property, a student distributor must request from the Superintendent or his/her designee to distribute materials such as handouts, petitions, leaflets or other literature so long as the same has been written and signed by one or more district students.

The source of such materials must be indicated on the printed matter.

1. Two (2) copies of the material to be distributed must accompany the request at least two (2) days prior to the time of distribution.
2. The application for approval of distribution must be made to the Superintendent or his/her designee who, if approval is granted, shall establish the time and place of distribution to assure that the process will not be disruptive of education in the building.

**2. Symbolic Expression** - Students, in light of constitutionally protected free speech rights, may wear political buttons, arm bands or badges of symbolic expression so long as the same conform to the limits set forth herein under "school newspaper" and "dress code."

**3. Dress Code** - All students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. All personnel should, in their own appearance, exemplify and reinforce acceptable student dress and help students develop an understanding of appropriate appearance in the school setting.

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

1. Be safe, appropriate and not disrupt or interfere with the educational process.
2. Recognize that extremely brief garments such as tube tops, net tops, halter tops, spaghetti straps, plunging necklines (front and/or back) and see-through garments are not appropriate.
3. Ensure that underwear is completely covered with outer clothing.

4. Include footwear at all times. Footwear that is a safety hazard will not be allowed.
5. Not include the wearing of hats in the classroom except for a medical or religious purpose.
6. Not include items that are vulgar, obscene, libelous or denigrate others on account of marital status, genetic predisposition, carrier status, race, color, religion, creed, national origin, gender, sexual orientation or disability.
7. Not promote and/or endorse the use of alcohol, tobacco or illegal drugs and/or encourage other illegal or violent activities.

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

**4. Student Activities** - All pupils shall enjoy equal access to the extent of their capabilities for participation in the various extra-curricular and co-curricular activities sponsored by the School District. The privilege of participating in such activities shall be conditioned upon appropriate conduct as established by the student code of conduct and any rules promulgated specifically for participation in extra and/or co-curricular activities.

**5. Student Government** - Students are encouraged to participate in the various student governmental bodies which have been or may be established in our schools. It shall be the duty of the student governmental body to establish reasonable standards for qualification of candidates to serve in offices of the government. Elections for student government shall be conducted in accordance with the principles of our democracy and elected student representatives shall work with the faculty, administration and student body in identifying cooperatively those areas of appropriate student responsibility. All student governmental bodies shall have a faculty advisor and shall be organized pursuant to a specific written constitution which the students shall participate in formulating.

**6. Student Clubs and Other Students Organizations** - The District encourages students to participate in curriculum related extra-curricular activity club and/or organizations. To the extent that the District authorizes meetings of non-curriculum related clubs or organizations, the same shall be subject to the constitution of the student government and shall be conducted in accordance with any applicable federal or state law, as well as Board of Education policy or regulations.

**7. Privacy Rights (Search and Seizure)** - Students in attendance in our public schools are protected against illegal or unreasonable personal searches or seizures of their property by both the federal and state constitutions. In light of these protections, no student's person or property shall be searched for illegal substances or materials unless the school authorities conducting the search have reasonable suspicion to do so. Lockers and desks assigned to students may be subject to inspection at any time by school officials since such places are not the property of the student, but rather are owned by the School District and shared with the student.

**8. Pregnant Students** - During pregnancy and the period of pregnancy related disability which follows childbirth, a student shall be entitled to home instruction. Upon request pregnant students who desire to attend their regularly scheduled classes prior to the time of childbirth may do so to the extent that their physician approves of such attendance.

**9. Student Grievances and Complaints** - If a student has a grievance or a complaint about a school-related matter, a school employee or other school official, s/he may submit it, in writing, to the Principal of the school who shall respond within ten (10) school days with a written answer or proposed resolution. Grievance or complaints may be appealed in writing to the Superintendent of Schools if the Principal's answer or proposed resolution is not deemed satisfactory by the student. The Superintendent of Schools shall respond to all grievances and complaints within a reasonable period of time following receipt of the written appeal document.

## **RESPONSIBILITIES OF STUDENTS**

Students attend school so that they may develop to their fullest potential. With this in mind, each student is expected 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 extracurricular pursuits and strive toward their highest level of achievement possible.
5. React to direction given by teachers, administrators and other school personnel in a respectful, positive 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. Accept responsibility for their actions;
11. Conduct themselves as representatives of the district when participating in or attending school-sponsored extracurricular events and to hold themselves to the highest standards of conduct, demeanor, and sportsmanship;
12. Respect the rights of others, including his/her right to secure an education in an environment that is orderly and disciplined;
13. Complete class assignments and other school responsibilities by established deadlines;
14. Show evidence of appropriate progress toward meeting, course and/or diploma requirements;
15. Obey school regulations and rules made by school authorities and by the student governing body;
16. Recognize that teachers assume the role of a surrogate parent in matters of behavior and discipline when at school, as well as during any school-sponsored activities;
17. Discourage inappropriate behavior of other students (including, but not limited to, bullying, harassment and hazing,) and report the incidents to the administration.

## **THE ROLE OF PARENTS**

A cooperative relationship between home and school is essential to each student's successful development and achievements. To achieve this wholesome relationship, parents are urged:

- to show an enthusiastic and supportive attitude toward school and education;
- to build a good working relationship between themselves and their child;
- to teach their children self-respect, respect for the law, respect for others and for public property;
- to insist on prompt and regular attendance;

- to listen to the views and observations of all parties concerned;
- to recognize that teachers merit the same consideration and respect that parents expect from their children;
- to encourage their children to take pride in his/her appearance;
- to insist that their children promptly bring home all communications from school;
- to cooperate with the school in jointly resolving, any school-related problem;
- to set standards of behavior for their children and resolve to remain firm and consistent;
- to help their children learn to deal effectively with negative peer pressure.
- to provide a place conducive for study and completion of homework assignments;
- to demonstrate desirable standards of behavior through personal example;
- to foster a feeling of pride in their children for their school,
- to provide support and positive reinforcement to their child.

Parents should be aware that they may be responsible for financial obligations incurred by their child in school. This may include lost books, damage to property, etc.

### **THE ROLE OF SCHOOL PERSONNEL**

School personnel play an important role in the education of students. In view of this responsibility, school personnel must:

- promote a climate of mutual respect and dignity which will strengthen each student's positive self-image,
- teach the common courtesies by precept and example;
- treat students in an ethical and responsible manner;
- participate in appropriate training related to positive and productive approaches to discipline and behavior management.
- help students to achieve commensurate with their abilities;
- demonstrate desirable standards of behavior through personal example;
- report violations of the Code of Conduct to the Building Principal or acting building principal;
- immediately report and refer violent students to the Principal or Superintendent of Schools.

### **Prohibited Student Conduct and Code Infractions**

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

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

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

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

- A. Engage in conduct that is disorderly. Examples of disorderly conduct include but are not limited to:
  1. Running in hallways.
  2. Making unreasonable noise.

3. Using language or gestures that are profane, lewd, vulgar or abusive.
4. Obstructing vehicular or pedestrian traffic.
5. Engaging in any willful act, which disrupts the normal operation of the school community.
6. 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.
7. Computer/electronic communications misuse, including any unauthorized use of computers, software, or internet/intranet account; accessing inappropriate websites; or any other violation of the district's acceptable use policy.

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

1. Failing to comply with the reasonable directions of teachers, school administrators or other school employees in charge of students.
2. Lateness, missing or leaving school without permission.
3. Skipping detention.
4. Failing to comply with the provisions of the District's Code of Conduct

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

1. Failing to comply with the reasonable directions of teachers, school administrators or other school personnel in charge of students.
2. Actions that significantly break the continuity of instruction.
3. Actions that disrupt orderly school operations.

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

1. Committing an act of violence (such as hitting, kicking, punching, biting, spitting and scratching) upon a teacher, administrator or other school employee or attempting to do so, and
2. Committing an act of violence (such as hitting, kicking, punching, scratching) upon another student or any other person lawfully on school property or attempting to do so.
3. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on school property or at a school function.
4. Displaying what appears to be a weapon.
5. Threatening to use any weapon.
6. Intentionally damaging or destroying the personal property of a student, teacher, administrator, other district employee or any person lawfully on school property, including graffiti or arson.
7. Intentionally damaging or destroying school district property.

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

1. Lying to school personnel that causes or could cause detriment to persons or property.
  2. Stealing the property of other students, school personnel or any other person lawfully on school property or attending a school function.
  3. Defamation, which includes making false statements or representations about an individual or identifiable group of individuals that harm the reputation of the person or the identifiable group by demeaning them.
  4. Discrimination, which includes the use of race, color, creed, national origin, religion, gender, marital status, genetic predisposition, carrier status, sexual orientation or disability as a basis for treating another in a negative manner.
  5. Harassment, which includes a sufficiently severe action or a persistent, pervasive pattern of actions or statements directed at an identifiable individual or group which are intended to be or which a reasonable person would perceive as ridiculing or demeaning.
  6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm, such as bullying.
  7. Hazing, which includes any intentional or reckless act directed against another for the purpose of initiation into, affiliating with or maintaining membership in any school sponsored activity, organization, club or team.
  8. Selling, using or possessing obscene material.
  9. Using vulgar or abusive language, cursing or swearing.
  10. Smoking a cigarette, cigar, pipe or using chewing or smokeless tobacco.
  11. Possessing, consuming, selling, distributing or exchanging alcoholic beverages or illegal substances, or being under the influence of either. "Illegal substances" include, but are not limited to, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, look-alike drugs, and any substances commonly referred to as "designer drugs."
  12. Radios, boom boxes, headsets, beepers, electronic games, etc. are disruptions to the learning process. These items are prohibited in school. All such equipment will be confiscated and held until a parent comes in to pick it up, or until the end of the school year.
  13. Cell phones, cam-phones and any other electronic communications device must be kept out of sight and turned off by students during the hours of the student instructional day, except when used with the teacher's prior permission for purposes of calendaring, calculating and noting assignments.
  14. Inappropriately using or sharing prescription and over-the-counter drugs.
  15. Gambling.
  16. Indecent exposure or threatening indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
  17. Initiating a report warning of fire or other catastrophe without valid cause, misuse of 911, or discharging a fire extinguisher.
- F. Engage in misconduct while on a school bus. It is crucial for students to behave appropriately while riding on district owned or district contracted buses to ensure their safety and that of other passengers

and to avoid distracting the bus driver. Students are required to conduct themselves on the bus in a manner consistent with established standards as set out in the Code of Conduct.

G. Engage in any form of academic misconduct. Examples of academic misconduct include:

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

**In addition, the following are prohibited :**

#### **Off-Campus Misconduct**

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

A student may be subject to discipline for off campus conduct that does not involve criminality that the Superintendent of Schools and/or Board of Education reasonably believes has a nexus to the educative process, i.e.: student-student, student-personnel interactions that foreseeably would have a detrimental or disruptive effect upon school programs or activities.

Penalties for misconduct will be determined in accordance with the severity of the violation as explained in this code under “Disciplinary Measures – Section A. – Penalties.”

#### **Dress and Grooming**

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 in-school suspension for the day. Any student who repeatedly fails to comply with the dress code shall be subject to further discipline, up to and including out of school suspension.

#### **Computer and Internet Use**

The following prohibited use of district-owned computer drives, network facilities and Internet links may give rise to disciplinary action against users of such equipment and/or facilities:

1. E-mail originating from the school premises or received at the school premises that a student user creates that:
  - is lewd, vulgar, obscene, indecent or inappropriate for student recipients of certain ages;
  - conveys an imminent threat of violence including sexual violence, to a specific individual or individuals;
  - constitutes a state and/or federal crime;
  - is the cause of or a substantial contributing factor to a substantial interference with the orderly functioning of the school(s);
  - attributes the text of e-mail to school officials or that the text is school endorsed, unless there is such official endorsement or consent from school officials.
2. Internet use that circumvents access restrictions placed upon the District’s computer systems by the Board of Education or its administrative designee(s).

3. Computer and/or Internet use that is not school related or is unauthorized.
4. Permitting the use of a student's computer access code by any other person. Penalties for computer and internet violations will be determined in accordance with the severity of the violation as explained in this code under "Disciplinary Measures – Section A. – Penalties."

### **Reporting Violations**

All students are expected to promptly report violations of the Code of Conduct to a teacher, guidance counselor, the building administrator or his or her designee. Any social worker, psychologist, or student observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall report this information immediately to a nurse, guidance counselor, teacher, the building administrator, the building administrator's designee or the superintendent.

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

Any weapon, alcohol or illegal substance found shall be confiscated immediately, if possible, followed by notification to the parent of the student involved and the appropriate disciplinary sanction warranted.

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

### **THE REPEATING OF AN INFRACTION MAY LEAD TO THE IMPOSITION OF A MORE SERIOUS MEASURE OF DISCIPLINE.**

### **CHRONIC REPEATING OF INFRACTIONS MAY LEAD TO LONG-TERM SUSPENSION OR PERMANENT SUSPENSION (EXPULSION).**

#### Minimum Period of Suspension

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

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

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

A student with a disability may be suspended 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 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 two days. The Superintendent has the authority to modify the minimum two-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.

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

## **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 who repeatedly is substantially disruptive of the educational process or who substantially interferes with the teacher's authority over the classroom will be suspended from school for at least two days. For purposes of this Code of Conduct, "repeatedly substantially disruptive" means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law §3214(3-a), and this Code, on four or more occasions during a semester.

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

## **Disciplinary Measures**

### **Procedures and Referrals**

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

Disciplinary action, when necessary, will be firm, fair and consistent so as to be the most effective in changing student behavior. 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 lighter penalty than subsequent violations. 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 or presumed to have 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. The school personnel identified after each penalty are authorized to impose that penalty, consistent with the student's right to due process.

1. Oral warning - any member of the district staff
2. Written warning - bus drivers, hall and lunch monitors, coaches, guidance counselors, teachers, acting principal, principal, superintendent
3. Written notification to parent - bus driver, hall and lunch monitors, coaches, guidance counselors, teachers, acting principal, principal, superintendent
4. Detention – (recess, after school) teachers, acting principal, principal, superintendent
5. Suspension from transportation, acting principal, principal, superintendent
6. Suspension from athletic participation – coaches, athletic director, acting principal, principal, superintendent
7. Suspension from social or extracurricular activities - activity director, acting principal, principal, superintendent
8. Suspension of other privileges - acting principal, principal, superintendent
9. In-school suspension - acting principal, principal, superintendent
10. Removal from classroom by teacher - teachers, acting principal, principal
11. Short-term (five days or less) suspension from school -principal, acting principal, superintendent, board of education
12. Long-term (more than five days) suspension from school- superintendent, board of education
13. Permanent suspension from school - superintendent, board of education.

## **Infractions with Penalty References**

1. Disorderly conduct (1, 2, 3, 4, 6, 7, 8, 9, 11)
2. Insubordinate conduct (1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12)
3. Disruptive conduct (1, 2, 3, 4, 6, 7, 8, 9, 10, 11)
4. Violent conduct (11, 12, 13)
5. Conduct that endangers safety, morals, health or welfare of others (1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13)
6. Misconduct on a school bus (1, 2, 3, 5)
7. Academic misconduct (1, 2, 3, 4, 8, 9, 11, 12)
8. Off campus misconduct (11, 12)
9. Dress code violations (1, 2, 3, 4, 6, 7, 8, 9, 11)
10. Misuse of district owned computers/internet links (1, 2, 3, 4, 8, 9, 11, 12)

## **B. Procedures**

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

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

### **Detention**

Teachers, principals and the superintendent may use recess or after school detention as a penalty for student misconduct in situations where removal from the classroom or suspension would be inappropriate. After school 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.

### **In-school suspension**

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

A student subjected to an in-school suspension is not entitled to a full hearing pursuant to Education Law §3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the district official imposing the in-school suspension to discuss the conduct, present his/her side of events and confront complaining witnesses, and the penalty involved.

### **Suspension from Transportation Service**

If a student does not conduct himself/herself properly on a bus, the bus driver is expected to bring such misconduct to the attention of the building principal. Students who become a serious disciplinary problem may have their riding privileges suspended by the building principal 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 be a long term suspension that amounts to a suspension from attendance; the school district will make appropriate arrangements to provide for the student's education.

### **Suspension from Extra-Curricular and Co-Curricular Activities, and School Functions**

A student may be suspended from participating in extra-curricular or co-curricular activities (including a sports team) for an infraction of any of the provisions herein, for violating a code of conduct issued to participants in the activity by the activity supervisor, coach or athletic director. Said suspending authority shall confront the student prior to suspension, offer the student notice of the reason for his/her suspension and provide an opportunity to present his or her version of the events. Written notice of the student's suspension from an extra-curricular, co-curricular activity or school function shall be sent by the suspending authority to the student and his/her parents by hand delivery or express mail to ensure receipt within 24 hours. Said notice shall inform the parent and student of their right to an informal conference with the suspending authority at which they will have the opportunity to confront complaining witnesses and present evidence in the student's defense. Following said meeting, a final decision will be reached regarding the suspension. Appeal of the suspension may be made to the student's building principal within 14 days. Upon the request of the student's parent/ guardian, the Building Principal shall allow the parent/guardian or other representative of the student the right to appear before him/her informally, to discuss the conduct which led to suspension from the activity.

If a student is suspended from school pursuant to §3214 of the Education Law, s/he shall not be permitted to participate in any extra- curricular or co-curricular activities, as well as any other school events or activities which take place on the days of suspension (including intervening weekends).

### **REMOVAL OF A STUDENT FROM THE CLASSROOM**

The School District has determined that certain acts of misconduct interfere with instruction and/or safety and welfare of students and staff. Although some incidents of misconduct may require removal from the classroom or suspension from school, effort will be made to deal with misconduct without removal from the classroom or suspension from school. However, no child will be allowed to continue disrupting the instruction of the class or interfering with the safety of the school, its staff, students and visitors. Early in the academic year, teachers will make every effort to familiarize themselves with all readily available information and records about the program placement of every student in their classes. A wide range of behavior modification interventions and time honored management techniques should support students in all of the educational programs, and teacher removal of a disruptive student should only be done following application of these interventions. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques.

A classroom teacher may remove a disruptive student for up to two days from his/her classroom when the student substantially disrupts the educational process or substantially interferes with the teacher's authority over the classroom. "Substantially disruptive" shall mean that the course of instruction has to be discontinued such that it significantly breaks the continuity of the lesson, in order to address the disruptive conduct of the student. "Substantially interferes" with the teacher's authority over the classroom shall mean that the student has been insubordinate to the teacher in the presence of the class and has failed to obey the teacher's directives to cease and desist.

If the teacher finds that the pupil's continued presence in the classroom does not pose a continuing danger to persons or property and does not present an ongoing threat of disruption to the academic process, the teacher shall, prior to removing the student from the classroom, provide the student with an explanation of the basis for the proposed removal and allow the pupil to informally present the pupil's version of relevant events.

If the student poses a danger or ongoing threat of disruption, the teacher may order the student to be removed immediately. The teacher must, however, explain within 24 hours 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.

The teacher must immediately notify building administrator or designee and complete a district-established disciplinary removal form.

The Building Principal or designee must inform the student's parent of the removal and the reasons therefore within 24 hours of the student's removal. Upon request, the student and his/her parent must be given an opportunity for an informal conference with the Principal or designee to discuss the reasons for removal. If the parent, upon notification by the authorized administrator, requests an informal conference, the teacher is obliged to be present at the conference, provided the teacher be given reasonable advance notice and the conference takes place during the regular work day.

If at the informal meeting the student denies the charges, the building administrator or the building administrator's designee must explain why the student was removed and give the student and the student's parents a chance to present the students version of the relevant events. Parent(s) and/or the student have an opportunity to disagree. The informal meeting must be held within 48 hours of the student's removal. If such 48 hour period were to terminate on a day in which school is not in session, such meeting shall be scheduled as soon as possible on the next school day. The timing of the informal meeting may be extended by mutual agreement of the parent and building administrator. The authorized administrator must decide to uphold or reverse the removal before the end of the following school day. The authorized administrator must notify the teacher and parent(s) of this decision in writing.

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

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

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

Any disruptive student removed from the classroom by the classroom teacher shall be offered continued educational programming and activities until he or she is permitted to return to the classroom. In the event of teacher removal of a disruptive student in accord with the Code of Conduct, continued educational programming will be provided as soon as practical.

Each teacher must keep a record for all cases of removal of students from his or her class. The building administrator must also keep records of all removals of students from class.

#### **STUDENT SUSPENSION PROCESS**

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

The Board of Education, Superintendent of Schools, a Building Principal or in his/her absence, an acting Building Principal, may suspend a student from school where it is determined that the student,

- is insubordinate or disruptive, or exhibits conduct which endangers the safety, morals, health or welfare of others; or
- is removed from a classroom for substantially disrupting the educational process or substantially interfering with the teacher's authority in the classroom
- is violent during attendance at school.

Although the Board retains its authority to suspend students, it places primary responsibility for the suspension of students with the superintendent and the building principal or acting principal.

Any staff member may recommend to the building principal or acting principal that a student be suspended. All staff members must immediately report and refer a violent student to the building principal or acting principal 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 building principal or acting 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.

In addition to the statutory grounds for suspension from school for conduct or health condition, students shall also be subject to suspension based upon a violation of the specific disciplinary infractions identified as prohibited student conduct.

## **A. Pre-suspension Process and Short Term Suspension Process**

Prior to being suspended from school, the student shall be personally questioned by the building principal, acting principal or Superintendent of Schools, at which time the evidence upon which the decision to suspend is based shall be stated to the student and the student shall be given the opportunity to explain his/her version of the facts. Additionally, the principal, acting principal or Superintendent will attempt to make telephone contact to the parents or guardian of the student and inform them of the proposed suspension, the basis for it and of parent's right to request an informal conference with Principal to personally question complaining witnesses and present evidence. Also, written notice of the same shall be mailed (by express mail so as to ensure receipt within 24 hours) to parents or hand delivered within 24 hours. If the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, such confrontation shall occur following suspension, as soon thereafter as is reasonably practicable. In all cases where the student does not present a continuing danger or ongoing threat of disruption, there shall be no suspension until after the student has been personally questioned, afforded an opportunity to explain his/her version of the facts and the informal principal's conference has been held or waived.

The right to an informal conference with the Principal shall also extend to a student if 18 years of age or older. The notice and informal conference shall be in the dominant language or mode of communication used by the parent.

Any appeal brought by the parent or a student who is over the age of 18 of a Principal's suspension must be presented to the Superintendent prior to filing any further appeal. The decision of the Superintendent may be appealed to the Board of Education and then to the New York State Commissioner of Education.

## **B. The Long-Term Suspension Process: Suspension for More than Five Days**

### **Pattern of Long-term Suspensions**

Any suspension from school in excess of five school days shall be considered a long-term suspension. Unless there is an agreement between the person requesting the suspension and the parent, a long-term suspension may be done only after the Superintendent of Schools, the Board of Education, or Superintendent of Schools designee has conducted a hearing.

When a student is subject to a long-term suspension, a hearing shall be conducted by the Board of Education or Superintendent as determined by the school authorities. The Superintendent of Schools or Board of Education may designate a Hearing Officer to make findings of fact with respect to the charges of infractions under this code of conduct, as well as penalty recommendation pursuant to the penalty parameters described herein.

## **C. Hearing Procedures**

### **Notice of Hearing**

In the event of the suspension of a student under the age of 18 years, the notice of suspension will be mailed or delivered to the parent, who shall have a minimum of 48 hours notice of the time and place of the hearing, notice of rights at the hearing, as well as the nature of the charge(s) and the facts sufficiently stated so that. A proper defense may be placed upon the record on behalf of the student.

In the event of the suspension of a student over the age of 18, the notice, as described above, shall be delivered or mailed to the student, as well as to the student's parents(s) if any. Emancipated minors shall be entitled to the same notice rights as a student beyond the age of 18 years.

All notices of long-term suspension hearings shall contain provisions indicating that the student has the right to be represented by an attorney or lay counsel, that a transcript of the hearing will be prepared in the form, at the district's discretion, of a tape recording, or stenographic record and that the student has the right to subpoena witnesses, or otherwise present witnesses in his/her defense. The time, date and location

of the hearing shall also be prominently set forth in the notice. If the student is 18 years of age or older, the letter described above will be mailed to the student as well as his/her parent.

### **The Long-Term Suspension Hearing**

The hearing shall be conducted by the Board of Education, Superintendent or a designated Hearing Officer.

At the beginning of the hearing, the Hearing Officer shall inform the student and the student's representative (s):

- that the Districts and the student's representatives shall have the right to examine and cross-examine witnesses;
- that they may be represented by an attorney, parent or other adult;
- that they have the right to present witnesses in defense of their actions.
- that the student has the privilege against self-incrimination, but that if the student does testify, s/he shall be subject to cross-examination;
- that the District has the burden of proving the charges by a preponderance of credible evidence;
- that a tape recorded or stenographic record (format determined at the district's discretion), of the proceedings shall be maintained and made available to the student's representative upon request; and that the hearing shall be private or open to the public, as determined by the student's representative.

The person conducting the hearing shall not have intimate knowledge of the details of the charges to assure an impartial, unbiased hearing of the case.

The Hearing Officer shall inform the parties:

- that the case will proceed by having the District present its evidence through witnesses and other evidence first;
- that the District's witnesses shall be subject to cross-examination by the student or his/her representative; and
- that the student will then have the opportunity to present witnesses on his/her behalf, subject to cross-examination by the District's representative,

Following the conclusion of the testimony and the introduction of other evidence matters, the parties shall be afforded the opportunity to present oral arguments to the Hearing Officer indicating the reasons why the charges should be sustained or dismissed.

The Hearing Officer shall then reach findings of fact upon the charges.

In the event that one or more of the charges is sustained, the Hearing Officer shall then entertain statements from the parties regarding the appropriate penalty outcome. In the event that the parent and/or the student, in an appropriate case, have been served with a notice indicating the student's past disciplinary anecdotal record may be offered for consideration at the hearing, such record may be considered by the Hearing Officer in determining an appropriate penalty. If the student or his/her representative challenges incidents contained in the past anecdotal record, he/she shall be entitled to a hearing with regard to the same prior to the use of this record.

The Hearing Officer, upon the conclusion of the portion of the proceedings dealing with penalty determinations, shall make findings of fact and penalty recommendations, if any, to the person or body which designated him/her immediately upon the conclusion of the long-term suspension hearing.

The Superintendent or Board, respectively shall make its own findings of fact and penalty decision, by adopting those of the designated Hearing Officer, where applicable, in whole or in part, or by reaching independent findings of fact and penalty determinations. This process should be concluded within the five school day period from the time of the initial suspension. The decision shall be immediately communicated to the student's representative and/or student (where over the age of 18).

#### **D. Appeals Process**

The decision of the Superintendent with respect to the findings of fact sustaining charges in a long-term suspension hearing and/or penalty determination shall be subject to appeal to the Board of Education within 120 days. The Board shall review the record of the proceedings before the Superintendent or his/her designated Hearing Officer, including a review of the transcript of the proceedings, documentary evidence and written arguments of the representatives of the respective parties, if any. The Board does not provide the representatives of the respective parties with the opportunity either to present evidence not previously in the record or to make arguments in person before the Board.

In the event that the initial long-term suspension hearing was conducted by the Board or its designated Hearing Officer, or where the Board has ruled on an appeal from a Superintendent's long-term suspension hearing, the matter may be further appealed to the Commissioner of Education and the Courts.

#### **Referrals**

1. Counseling-The CSE, Social Worker, Psychologist and/or Guidance Office shall handle all referrals of students to counseling.
2. PINS Petitions -The district may file a PINS (person in need of supervision) petition in Family Court on any student under the age of 18 who demonstrates that he or she requires supervision and treatment by:
  - a. Being habitually truant and not attending school as required by part one of Article 65 of the Education Law.
  - b. Engaging in an ongoing or continual course of conduct which makes the student ungovernable, or habitually disobedient and beyond the lawful control of the school.
  - c. Knowingly and unlawfully possesses marijuana in violation of Penal Law § 221.05. A single violation of § 221.05 will be a sufficient basis for filing a PINS petition.
3. Juvenile Delinquents and Juvenile Offenders

The superintendent is required to refer the following students to the County Attorney for a juvenile delinquency proceeding before the Family Court:

- a. Any student under the age of 16 who is found to have brought a weapon to school, or
- b. Any student 14 or 15 years old who qualifies for juvenile offender status under the Criminal Procedure Law §1.20 (42).

The Superintendent is required to refer students age 16 or older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

#### **Alternative Instruction**

Pursuant to the Education Law, no compulsory education age student shall be suspended from school in his/her regularly scheduled classes without being, provided alternative equivalent instruction, either in the form of home instruction, or instruction in an alternative setting. Such instruction shall be of an equivalent nature to that provided in the student's regularly scheduled classes. A good faith effort shall be made to provide such alternative instruction immediately.

In the event that a student within the compulsory education ages of six and the school year in which s/he becomes 16 is suspended from school in excess of five school days, alternative equivalent instruction shall be provided for the duration of the period of suspension.

### **Suspension of Students with Disabilities**

In the event that a student has a known disability or when school officials can be deemed to know — in accordance with law, that a student has a disability, the District will first proceed to conduct a §3214 disciplinary proceeding for any suspension of more than five days. The §3214 disciplinary proceeding will be held in two parts, first to determine the student's guilt or innocence on the charges and the second to determine the penalty.

If guilt is determined on a violation of a provision of the District's Code of Conduct, before a penalty may be imposed, the following rules shall apply:

#### **§504/Title I/ADA Disability -**

For a student solely with a disability under §504 of the Rehabilitation Act of 1973 (hereinafter referred to as "§504") /Title II of the Americans with Disabilities Act (hereinafter referred to as the "ADA"), the §504 multidisciplinary committee must make a determination of whether the conduct underlying the charges was a manifestation of the disability.

1. If a nexus is found between the disability and the conduct, no additional discipline shall be imposed and the record of discipline imposed to date shall be expunged.
2. If no nexus is found, yet nonetheless a disability is indicated or has been identified, discipline may be imposed upon remand to the §3214 hearing officer. A change in placement; i.e. a suspension, removal or transfer, in excess of ten (10) school days must be preceded by notice and an evaluation conducted by the §504 team.
3. Students with a recognized Section 504/ADA disability who are currently using or in possession of alcohol or drugs may be disciplined, regardless of their disability status in the same manner and to the same extent as non-disabled students, provided that same students are currently engaged in the illegal use of drugs or use of alcohol.

#### **IDEA Disability -**

For students classified or presumed to have disabilities under the Individuals with Disabilities Act (hereinafter referred to as "IDEA")(a student with an educational disability), a Manifestation Team must make a manifestation determination prior to a student's suspension for 10 or more consecutive school days or prior to a suspension of 10 days or less, if it has been determined that a suspension for less than 10 consecutive school days would constitute a disciplinary change in placement.

A series of suspensions that are each ten (10) days or fewer in duration may create a pattern of exclusions that constitutes a disciplinary change in placement. That determination will be made on a case by case basis in accordance with applicable law and regulation. Among the factors considered in making this determination are the length of each suspension, the proximity of the suspensions to one another, and the total amount of time the student is excluded from school.

A student shall be presumed to have a disability if prior to the time the behavior occurred:

1. The parent or guardian of the child has expressed in writing to supervisory or administrative personnel of the appropriate educational agency or to a teacher of the student that the student is in need of special education, provided that such notification may be oral if the parent does not know how to write or has a disability that prevents a written statement; or
2. The parent of the student has requested an evaluation of the student; or

3. A teacher of the student or other personnel of the District has expressed specific concern about a pattern of behavior demonstrated by the student to supervisory personnel in the District in accordance with the District's child-find procedures.

A student shall not be presumed to have a disability for discipline purposes, despite satisfaction of one or more of the above criteria, if:

1. The parent of the student has not allowed a relevant evaluation of the student by the Committee on Special Education ("CSE");
2. The parent of the student has refused special education services; or
3. It was determined by the CSE or Committee on Preschool Special Education ("CPSE") that the Student is not a student with a disability; or
4. It was determined that an evaluation was not necessary and the District provided appropriate notice to the parents of such determination.

#### **Manifestation Determinations**

A Manifestation Team, which shall include a representative of the school district knowledgeable about the student and interpretation of information about child behavior, the parent and relevant members or the committee on special education as determined by the parent and the school district. The parent must receive written notification prior to any manifestation team meeting to ensure that the parent has an opportunity to attend and inform the parent(s) of their right to have relevant members of the CSE participate at the parent's request.

1. When making a manifestation determination, the Manifestation Team shall review all relevant information in the student's file including the student's IEP, any teacher observations and any relevant information provided by the parents to determine if:
  - a. The conduct in question was caused by or had a direct and substantial relationship to the student's disability; or
  - b. The conduct in question was a direct result of the school district's failure to implement the IEP

If either of the aforementioned criteria listed as "a." and "b." above are answered affirmatively, the conduct in question shall be deemed to be a manifestation of the student's disability.

When a Manifestation Team determines that the conduct in question was a manifestation of a student's disability, the CSE shall meet to recommend and conduct a functional behavioral assessment and implement a behavior intervention plan in accordance with 8 NYCRR § 201.3 and 201.4(d)(2)(a)).

A meeting for the sole purpose of making a manifestation determination does not require five calendar days notice to the student's parent or guardian at the meeting. However, if the CSE meets to consider a change in placement in conjunction with the manifestation determination, the five-day notice requirement of §200.5(a)(3) of the Commissioner's Regulations is applicable and parental participation in all CSE meetings is expected and strongly encouraged.

#### **DISCIPLINE OF STUDENTS WITH DISABILITIES WHEN THE MANIFESTATION TEAM HAS MADE AN AFFIRMATIVE "MANIFESTATION FINDING"**

When an educationally disabled student's conduct is a manifestation of the child's disabling condition, a student classified under IDEA may only be suspended from school for more than ten (10) consecutive school days, if one of the following applies:

1. The CSE recommends a change in placement on the student's Individualized Education Plan (IEP) and/or Behavior Intervention Plan and the parent, guardian or eighteen-year or older student consents to such change in writing following receipt of their Procedural Safeguards Notice.
2. A court order or order from an impartial hearing officer of suspension/removal of a dangerous student pursuant to 8 NYCRR 201.8 is obtained.
3. The violation involves weapons, drugs or serious bodily injury.

#### **Suspensions for Misconduct Involving Weapons and/or Drugs and/or Serious Bodily Injury**

A student classified or deemed to be known as having an educational disability under IDEA may be suspended and placed in an interim alternative education setting for up to forty-five school (45) days (less if the discipline for a non-disabled student would be less), if the student is found guilty of 1) carrying or possessing a weapon while at school, on school property or at a school function, or 2) knowingly possessing or using illegal drugs, or selling or soliciting the sale of a controlled substance while at school, on school premises or a school function, or 3) inflicting a serious bodily injury to another person while at school or a school function.

1. In accordance with law, the term "weapon" means "a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2-1/2 inches in length."
2. In accordance with law, the term "illegal drugs" means controlled substances but not those legally possessed or used under the supervision of a licensed health care professional or other permitted authority under the Federal Controlled Substances Act or under any other provision of Federal law. Controlled substances are drugs and other substances identified under schedules set forth in applicable Federal law provisions.
3. In accordance with law, the term "serious bodily injury" means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

Before a student is suspended and placed in an interim alternative educational setting for up to 45 school days for behavior involving weapons and/or drugs, and/or serious bodily injury, the Manifestation Team must conduct a manifestation determination.- Placement in an interim alternative educational setting as a result of conduct involving weapons and/or drugs and/or serious bodily injury is not contingent upon a the Manifestation Team determination that the misconduct is not related to the student's disability.

1. If the student is or may be placed in an IAES, the CSE shall as appropriate, recommend functional behavioral assessment and behavior intervention, or review any such pre-existing, plan for modification; and
2. A CSE shall determine and recommend an IAES reasonably calculated to enable the child to continue to receive educational services, participate in the general curriculum and progress toward meeting IEP goals and objectives during the period of suspension from instruction.

#### **Dangerous Students**

To continue the suspension of a student classified or deemed to be known as having an education disability under IDEA for more that 10 consecutive school days, the School District may commence an expedited hearing before a special education impartial hearing officer to demonstrate that a student is "dangerous" and is substantially likely to cause injury to himself or others if returned to his last agreed upon placement. An impartial hearing officer may order the placement of the student in an interim alternative setting for up to 45 school days in accordance with 8 NYCRR §201.8 and 201.11.

1. The Manifestation Team must still conduct a manifestation determination within 10 consecutive school days of the initial disciplinary action.
2. If the student is or may be placed in an IAES, the CSE shall as appropriate, recommend functional behavioral assessment and behavior intervention plan, or review any such pre-existing, plan for modification; and
3. An impartial hearing officer's determination allowing a student's placement in an IAES as a result of dangerous behavior, is not contingent upon a Manifestation Team determination that the misconduct is not related to the student's disability.

### **DISCIPLINE OF STUDENTS WITH DISABILITIES WHERE THE MANIFESTATION TEAM HAS MADE A "NO MANIFESTATION FINDING"**

Where a student with a disability's conduct is found not to be a manifestation of his/her disability he/she may be disciplined in the same manner and to the same extent as non-disabled students. In such instances, the CSE shall meet upon proper notice to determine any appropriate evaluations which must be performed, changes to a student's Individualized Education Program and to recommend an appropriate Interim Alternative Educational Setting where the child can continue to receive educational services, although in another setting, that enable the child to participate in the general curriculum and progress toward meeting IEP goals and objectives during the period of suspension from instruction.

#### **Pendency Placement**

An IAES shall be deemed the student's "stay put" placement for up to 45 school days, during the pendency of any expedited due process proceedings commenced by parents to contest 1) a finding that a student is not "presumed to have a disability", and/or 2) a finding that the student's misconduct was not a manifestation of the student's disability, and/or 3) a decision to place a student in an CSE recommended IAES for misconduct involving weapons and/or drugs and/or serious bodily injury, and/or 4) the decision of an impartial hearing officer in a dangerousness hearing and/or 5) the appropriateness of an IAES program recommended by the CSE in the context of one of the four categories of action listed above.

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

#### **Visitors to the Schools**

The Poughkeepsie City School District encourages parents, community members and other citizens to visit its programs and classrooms to observe the work of students, teachers and other staff. However, since our facilities are places of work and learning, certain limits must be set for such visits. The building and/or facility administrator or his or her designee is responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to school district programs:

1. Anyone who is not a district staff member or a district student will be considered a visitor.
2. All visitors to the instructional program must report to the greeter, or, if a greeter is not present, to the office of the building administrator upon arrival at the facility. There they will be required to sign the visitor's register and will be issued a visitor's identification badge, which must be worn at all times while in the facility or on the grounds. The visitor must return the identification badge to the greeter or building administrator's office before leaving the building.
3. Visitors attending district functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
4. Parents or citizens who wish to observe a classroom while instructional programs are in session are required to arrange such visits in advance with the classroom teacher(s) and building administrator, so that class disruption is kept to a minimum.

5. Teachers are not expected to take class time to discuss individual matters with visitors.
6. Any unauthorized person on district property will be reported to the building administrator or his or her designee. Unauthorized persons will be asked to leave. The police may be called if the situation warrants.
7. All visitors are expected to abide by the rules for public conduct on district property contained in this code of conduct.

#### **Public Conduct on School District Property**

The Poughkeepsie City School 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 district property and at district functions. For purposes of this section of the code, "Public" shall mean all persons when on district property or attending a district function including students, teachers and other school personnel.

The restrictions on public conduct on district property and at district 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 its objectives. The purpose of this code is to maintain public order and prevent abuse of the rights of others.

All persons on district property or attending a district function shall conduct themselves in a respectful and orderly manner. In addition, all persons on district property or attending a district function are expected to be properly attired for the purpose they are on district property. Please note the Dress Code section herein.

#### **Prohibited Conduct**

No person, either alone or with others, shall:

1. Intentionally bully or injure any person or threaten to do so. Physically restrain or detain any other person, or remove such person from any place where s/he is authorized to remain, unless so authorized by a district official;
2. Intentionally damage, remove or destroy district property or the personal property of a teacher, administrator, other employees or any person lawfully on district property. Such actions include graffiti or arson.
3. Disrupt the orderly conduct of classes, district programs or other district activities.
4. Distribute or wear materials on district grounds or at district functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others, or are disruptive to the district program.
5. Intimidate, harass, bully or discriminate against any person on the basis of race, color, creed, national origin, religion, age, gender, sexual orientation or disability.
6. Enter any portion of the district premises without authorization. Remain without authorization in any building or facility after it is normally closed for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others, refuse to leave any building or facility after being required to do so by an authorized administrative officer or member of the faculty or staff member.
7. Obstruct the free movement of any person in any place to which this code applies. Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures and meetings or deliberately interfere with the freedom of any person to express his/her views, including invited speakers;
8. Violate the traffic laws, parking regulations or other restrictions on vehicles;

9. Possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on district property or at a district function.
10. Possess or use weapons (any rifle, shotgun, pistol, revolver, or other firearm or item covered in the definition of “weapon” ) without written authorization of the Superintendent, whether or not a license to possess the same has been issued to such person; except in the case of law enforcement officers or except as specifically indicated;
11. Loiter on school property;
12. Gamble on district property or at district functions and events;
13. Refuse to comply with any reasonable order of identifiable 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 district property or while at a district function.

This code and the penalties set forth herein are not considered to be inclusive or to preclude in any way the prosecution and conviction of any person for the violation of any federal or state law or local ordinance and the imposition of a fine or penalty provided for therein.

#### **PENALTIES AND PROCEDURES**

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

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

#### **Enforcement**

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

When the building administrator or his or her designee sees an individual engaged in prohibited conduct, which in his or her judgment does not pose any immediate threat of injury to persons or property, the administrator or his or her designee shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The administrator or his or her designee shall also warn the individual of the consequences for failing to stop. If the person refuses to stop engaging in the prohibited conduct, or if the person's conduct poses an immediate threat of injury to persons or property, the administrator or his or her designee shall have the individual removed immediately from district property or the district 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.

## **DISSEMINATION AND REVIEW**

### **A. Dissemination of 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 a general assembly held at the beginning of each school year and receiving a written statement from each student acknowledging receipt and review of the same.
2. Making copies of the code available to all parents at the beginning of the school year.
3. Mailing a summary of the code of conduct written in plain language to all parents of district students before the beginning of the school year and making this summary available later upon request.
4. Providing all current teachers and other staff members with a copy of the code and a copy of any amendments to the code as soon as practicable after adoption and receiving a written acknowledgement from each staff member that they have received and reviewed the same.
5. Providing all new employees with a copy of the current code of conduct when they are first hired and receiving a written acknowledgement from each staff member that they have received and reviewed same.
6. Making copies of the code available for review by students, parents and other community members.

The board will sponsor an in-service education program for all district staff members to ensure the effective implementation of the code of conduct. The superintendent may solicit the recommendations of the district staff, particularly teachers and administrators, regarding in service programs pertaining to the management and discipline of students. The board of education will review this code of conduct every year and update it as necessary. In conducting the review, the board will consider how effective the code’s provisions have been and whether the code has been applied fairly and consistently.

Before adopting any revisions to the Code, The Board will hold at least one public hearing, at which school personnel, parents, students or other interested parties may be present.

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