

# Dutchess BOCES

Code of Conduct

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# Dutchess BOCES Code of Conduct

## I. Introduction

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

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

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

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

While there are formal disciplinary procedures in place, it is critical that parents and educators realize the importance of communication and informal relationships in resolving discipline issues. The formal discipline process is often unnecessary when parents, educators and students have an opportunity to develop cooperative partnerships. Collaborative discussions of this type often lead to creative and student specific solutions, which support appropriate behavior and educational achievement. If parents or school officials believe that a student’s placement is not appropriate, they should work together to recommend an appropriate change. Collaborative and cooperative partnerships among parents, educators and students are more likely to result in a change that will meet the needs of the student, ensure improved learning opportunities and create a safe environment.

The following key points from the publication *Safeguarding Our Children: An Action Guide*<sup>1</sup> highlight certain principles that research or expert-based experience show have a significant impact on successful prevention and intervention plans for students with behavior problems.

### Principles Underlying Behavior Intervention

- Share responsibility by establishing a partnership with the child, school, home and community.
- Inform parents and listen to them when early warning signs are observed. Parents should be involved as soon as possible.
- Maintain confidentiality and parents' rights to privacy.
- Develop the capacity of staff, students and families to intervene.
- Support students in being responsible for their actions.
- Make interventions available as early as possible.
- Use sustained, multiple, coordinated interventions. It is rare that children are disruptive only in school.
- Analyze the contexts in which behavior problems occur.
- Build upon and coordinate internal school resources.

<sup>1</sup> Dwyer, K. and Osher, D. (2000). *Safeguarding Our Children: An Action Guide*. Washington, D.C.: U.S. Department of Education and Justice, American Institutes for Research. This document is available on the web at <http://www.ed.gov/pubs/edpubs.html>.

## II. Definitions

For purposes of this code, the following definitions apply:

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

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

“School property” means in or within any BOCES building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of BOCES, or a public elementary or secondary school leased to the Dutchess BOCES, or in or on a school bus, as defined in Vehicle and Traffic Law § 142.

“School function” means any BOCES-sponsored extracurricular event or activity.

“Violent student” means a student age 21 or under who:

1. Commits an act of violence upon a school employee, or attempts to do so.
2. Commits, while on school property or at a school function, an act of violence upon another student or any other person lawfully on school property or at the school function, or attempts to do so.
3. Possesses, while on school property or at a school function, a weapon.
4. Displays, while on school property or at a school function, what appears to be a weapon.
5. Threatens, while on school property or at a school function, to use a weapon.
6. Knowingly and intentionally damages or destroys the personal property of any school employee or any person lawfully on school property or at a school function.
7. Knowingly and intentionally damages or destroys school district property.

“Weapon” means a firearm as defined in 18 USC § 921 for purposes of the Gun-Free Schools Act. It also means any other gun, BB gun, pistol, revolver, shotgun, rifle, machine gun, disguised gun, dagger, dirk, razor, stiletto, switchblade knife, gravity knife, brass knuckles, sling shot, metal knuckle knife, box cutter, cane sword, electronic dart gun, Kung Fu star, electronic stun gun, pepper spray or other noxious spray, explosive or incendiary bomb, or other device, instrument, material or substance that can cause physical injury or death when used to cause physical injury or death.

### **III. Student Rights and Responsibilities**

#### **A. Student Rights**

The BOCES 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, 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.

#### **B. Student Responsibilities**

All students attending BOCES programs, or BOCES functions have the responsibility to:

1. Contribute to maintaining a safe and orderly school environment that is conducive to learning and to show respect to other persons and to property.
2. Be familiar with and abide by all district policies, rules and regulations dealing with student conduct.
3. Attend school every day unless they are legally excused and be in class, on time and prepared to learn.
4. Work to the best of their abilities in all academic and extracurricular pursuits and strive toward the 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 referral for disciplinary action.
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. Students may find themselves in the unique situation of possessing information that could be potentially dangerous to themselves or others. They should report any and all situations or suspicions about harmful acts to their teachers or other BOCES personnel. All suspicions should be immediately reported.

8 NYCRR § 100.2(1)(2)(ii)(o)

## **IV. Essential Partners**

### **A. Parents**

All parents are expected to:

1. Recognize that the education of their child(ren) is a joint responsibility of the parents and the school community.
2. Send their children to school ready to participate and learn.
3. Ensure their children attend school regularly and on time.
4. Ensure absences are excused.
5. Take affirmative actions to report all information or suspicions about potentially harmful acts.
6. Insist their children be dressed and groomed in a manner consistent with the student dress code.
7. Help their children understand that in a democratic society appropriate rules are required to maintain a safe, orderly environment.
8. Know school rules and help their children understand them.
9. Convey to their children a supportive attitude toward education and the district.
10. Build good relationships with teachers, other parents and their children's friends.
11. Help their children deal effectively with peer pressure.
12. Inform school officials of changes in the home situation that may affect student conduct or performance.
13. Provide a place for study and ensure homework assignments are completed.

### **B. Teachers**

All BOCES teachers are expected to:

1. Maintain a climate of mutual respect and dignity, which will strengthen students' self-concept and promote confidence to learn.
2. Be prepared to teach.
3. Demonstrate interest in teaching and concern for student achievement.
4. Know school policies and rules, and enforce them in a fair and consistent manner.
5. Communicate to students and parents:
  - a. course objectives and requirements
  - b. marking/grading procedures
  - c. assignment deadlines
  - d. expectations for students
  - e. classroom discipline plan
6. Communicate regularly with students, parents and other teachers concerning growth and achievement.

### **C. Guidance Counselors**

1. Assist students in coping with peer pressure and emerging personal, social and emotional problems.
2. Initiate teacher/student/counselor conferences and parent/teacher/

student/counselor conferences, as necessary, as a way to resolve problems.

3. Regularly review with students their educational progress and career plans.
4. Provide information to assist students with career planning.
5. Encourage students to benefit from the curriculum and extracurricular programs.

#### **D. Building Administrators**

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

#### **E. District Superintendent**

1. Promote a safe, orderly and stimulating school environment, supporting active teaching and learning.
2. Review with district administrators the policies of the board of education and state and federal law relating to school operations and management.
3. Inform the board about educational trends relating to student discipline.
4. Work to create instructional programs that minimize problems of misconduct and are sensitive to student and teacher needs.
5. Work with BOCES administrators in enforcing the code of conduct and ensuring that all cases are resolved promptly and fairly.

#### **F. Board of Education**

1. Collaborate with student, teacher, administrator, and parent organizations, school safety personnel and other school personnel to develop a code of conduct that clearly defines expectations for the conduct of students, district personnel and visitors on school property and at school functions.
2. Adopt and review at least annually the code of conduct to evaluate the code's effectiveness and the fairness and consistency of its implementation.
3. Lead by example by conducting board meetings in a professional, respectful, courteous manner.

Education Law § 2801(2)(a)

## V. Student Dress Code

All students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. Students and their parents have the primary responsibility for acceptable student dress and appearance. All BOCES 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 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/designee shall be responsible for informing all students and their parents of the student dress code at the beginning of the school year and any revisions to the dress code made during the school year.

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

[Education Law § 2801\(2\)\(a\)](#)

[Tinker v. DesMoines Independent School Dist., 393 U.S. 503 \(1969\)](#)

[Appeal of Pintka, 33 Ed Dept Rep 228 \(1993\)](#)

[Appeal of Parsons, 32 Ed Dept Rep 672 \(1993\)](#)

[Appeal of Phillips, 38 Ed Dept Rep 297 \(1998\)](#)

## **VI. Prohibited Student Conduct**

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

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

The board recognizes the need to make 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 that 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 accounts; 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 or otherwise demonstrating disrespect.
  - 2. Lateness for, missing or leaving school without permission.
  - 3. Skipping detention.
- 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.
- 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.
  2. Committing an act of violence (such as hitting, kicking, punching and scratching) upon another student or any other person lawfully on school property or attempting to do so.
  3. Possessing a weapon. Authorized law enforcement officials are the only persons permitted to have a weapon in their possession while on school property or at a school function.
  4. Displaying what appears to be a weapon.
  5. Threatening to use any 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.
  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 or unprivileged statements or representations about an individual or identifiable group of individuals that harm the reputation of the person or the identifiable group by demeaning them.
  4. Discrimination, which includes the use of race, color, creed, national origin, religion, gender, sexual orientation or disability as a basis for treating another in a negative manner.
  5. Harassment, which includes a sufficiently severe action or a persistent, pervasive pattern of actions or statements directed at an identifiable individual or group which are intended to be or which a reasonable person would perceive as ridiculing or demeaning.
  6. Intimidation, which includes engaging in actions or statements that put an individual in fear of bodily harm.
  7. Hazing, which includes any intentional or reckless act directed against another for the purpose of initiation into, affiliating with or maintaining membership in any school sponsored activity, organization, club or team.
  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, cellular phones, 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. Inappropriately using or sharing prescription and over-the-counter drugs.
  14. Gambling.
  15. Indecent exposure, that is, exposure to sight of the private parts of the body in a lewd or indecent manner.
  16. Initiating a report warning 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 buses to ensure their safety and that of other passengers and to avoid distracting the bus driver. Students are required to conduct themselves on the bus in a manner consistent with established standards for classroom behavior. Excessive noise, pushing, shoving and fighting will not be tolerated.
- G. Engage in any form of academic misconduct. Examples of academic misconduct include:
1. Plagiarism.
  2. Cheating.
  3. Copying.
  4. Altering records.
  5. Assisting another student in any of the above actions.

## **VII. Reporting Violations**

All students are expected to promptly report violations of the code of conduct to a teacher, guidance counselor or the building administrator/designee. Any student observing a student possessing a weapon, alcohol or illegal substance on school property or at a school function shall report this information immediately to a teacher, the building administrator/designee or the district superintendent.

All BOCES staff that are authorized to impose disciplinary sanctions are expected to do so in a prompt, fair and lawful manner. BOCES staff that are not authorized to impose disciplinary sanctions are expected to promptly report violations of the code of conduct to their supervisors, 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 if warranted, which may include permanent suspension and referral for prosecution.

The building administrator/designee must notify the appropriate local law enforcement agency of those code violations that constitute a crime and substantially affect the order or security of a school as soon as practical, but in no event later than the close of business the day the building administrator/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.

Education Law § 2801(2)(h) and (i)

## **VIII. Discipline**

### **Procedures and Referrals**

In addressing student behaviors that may impede learning, school personnel should consider a range of positive supports and strategies and interventions beyond removals and suspensions. Discipline policies and practices and behavioral intervention plans should include a variety of interventions such as addressing a student's motivation, social skills and problem-solving abilities and using positive reinforcement and logical consequences. In addition, the BOCES may use interventions such as student carrels, after school detention, behavior recovery rooms, academic intervention rooms and other temporary alternative placement.

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. BOCES personnel who interact with students are expected to use disciplinary action only when necessary and to place emphasis on the students' abilities 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 that 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 behavior of a student is suspected to be related to his/her disabling condition, the student shall be referred to the component school district's Committee on Special Education. Discipline, if warranted, shall be administered consistent with the separate requirements of the component school district's procedures for disciplining students with a disability, or presumed to have a disability. A student identified as disabled shall not be disciplined for behavior related to his/her disability.

### **A. Intervention and Penalties**

Students who are found to have violated the code of conduct may be subject to the following interventions, either alone or in combination. These interventions are not listed in a necessarily sequential order. Positive alternatives can be used individually or in combination with penalties by all BOCES staff listed after the penalties. The BOCES personnel identified after each penalty (2 through 13) are authorized to impose that penalty, consistent with the student's right to due process.

1. Address positive alternatives such as:
  - a. address student's motivations
  - b. social skills
  - c. problem-solving skills instruction

- d. positive reinforcements
  - e. logical consequences
  - f. anger management
  - g. conflict resolution
  - h. behavior management techniques
2. Oral warning – any member of the district staff.
  3. Team therapeutic intervention – social workers, guidance counselors, crisis intervention workers, etc.
  4. Utilization of behavior recovery room or academic intervention rooms or other appropriate temporary settings – any member of the district staff.
  5. Written warning – bus drivers, hall and lunch monitors, coaches, guidance counselors, teachers, building administrator, district superintendent.
  6. Written notification to parent – bus driver, hall and lunch monitors, coaches, guidance counselors, teachers, building administrator, district superintendent.
  7. Detention – teachers, building administrator, district superintendent.
  8. Suspension from athletic participation – coaches, building administrator, district superintendent.
  9. Suspension from social or extracurricular activities – building administrator, district superintendent.
  10. Suspension of other privileges – building administrator, district superintendent
  11. Short-term (five days or less) suspension from school – building administrator, district superintendent, board of education.
  12. Long-term (more than five days) suspension from school – building administrator, district superintendent, board of education.
  13. Permanent suspension from school – district superintendent, board of education.

## **B. Procedures**

The kind 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 BOCES 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 versions 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.

### **1. Detention**

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

## **2. Suspension from transportation**

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

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

## **3. Suspension from athletic participation, extracurricular activities and other privileges**

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

## **4. Behavior recovery room or academic intervention room**

The board recognizes the BOCES 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 administrators and the district superintendent to place students including those who would otherwise be suspended from school as the result of a code of conduct violation into the behavior recovery room/academic intervention room.

A student subjected to the behavior recovery room/academic intervention room is not entitled to a full hearing pursuant to New York State Education Law § 3214. However, the student and the student's parent will be provided with a reasonable opportunity for an informal conference with the BOCES official.

## **5. Teacher disciplinary removal of disruptive students**

Early in the academic year, teachers will familiarize themselves with all available information and records about the program placement of every student in their classes. A wide range of behavior modification interventions supports students in all of the BOCES educational programs, and teacher removal of a disruptive student should only be done in a manner consistent with these interventions. Removal of a student with a disability may constitute a change of placement and should not be undertaken unilaterally by any teacher unless removal would be consistent with a disabled student's IEP or Behavior Intervention Plan. Teachers concerned about the classroom behavior of a student with a disability should refer to Section X, page 19, of this code of conduct and Appendix B to this document.

A student's behavior can affect a teacher's ability to teach and can make it difficult for other students in the classroom to learn. In most instances the classroom teacher can control a student's behavior and maintain or restore control over the classroom by using good classroom management techniques. These techniques may include practices that involve the teacher directing a student to briefly leave the classroom to give the student an opportunity to regain his/her composure and self-control in an alternative setting. Such practices may include, but are not limited to: (1) short-term "time out" in a classroom or in an administrator's office; (2) sending a student to the office for the remainder of the class time only; or (3) sending a student to a guidance counselor or other BOCES staff member for counseling. Time-honored classroom management techniques such as these do not constitute disciplinary removals for purposes of this code.

On occasion, a student's behavior may become disruptive. For purposes of this code of conduct, a disruptive student is a student who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

A classroom teacher may remove a disruptive student from class for up to two days. *The removal from class applies to the class of the removing teacher only.*

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 removal and allow the pupil to informally present the pupil's version of relevant events. In all other cases, the teacher shall provide the pupil with an explanation of the basis for the removal and an informal opportunity to be heard within twenty-four hours of the pupil's removal.

The teacher must complete a BOCES-established disciplinary removal form immediately and meet with the building administrator/designee as soon as possible, but no later than the end of the school day, to explain the circumstances of the removal and to present the removal form.

Within 24 hours after removal, the authorized administrator/designee will notify parents by telephone and letter about the removal and explain the reason(s) in that notification.

If the parent, upon notification by the authorized administrator, requests an informal conference, the teacher is obliged to be present at the conference.

If at the informal conference the student denies the charges, the building administrator/designee must explain why the student was removed and give the student and the student's parents a chance to present the student's version of the relevant events. This conference will occur at the request of the parent and no later than 48 hours after the removal. The timing of the informal conference may be extended by mutual agreement of the parent and building administrator. The authorized administrator will explain the reasons for removal. Parent(s) and/or the student have an opportunity to disagree. The authorized administrator must decide to uphold or reverse the removal or find that the conduct warrants suspension from school before the end of the following school day. The authorized administrator must notify the teacher and parent(s) of this decision.

The building administrator/designee may overturn the removal of the student from class if the building 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/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 practicable. The type of continued educational program will vary depending on individual student needs, but may consist of, for example, a behavior recovery room/academic intervention room or other instruction as determined by the CSE, administrator, or other appropriate authority.

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

Removal of a student with a disability, under certain circumstances, may constitute a change in the student's placement. Additionally, no teacher may remove a student unless he/she has verified with the building administrator that the proposed removal would not constitute a change in placement.

## **6. Suspension from school**

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

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

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

The district superintendent or building administrator, upon receiving a recommendation or referral for suspension or when processing a case for suspension,

shall gather the facts relevant to the matter and record them for subsequent presentation, if necessary.

a. Short-term (five days or less) suspension from school.

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

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

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

After the conference, the building administrator shall promptly advise the parents in writing of his/her decision. The building administrator shall advise the parents that if they are not satisfied with the decision and wish to pursue the matter, they must file a written appeal to the component school superintendent within five business days, unless they can show extraordinary circumstances precluding them from doing so. The component school superintendent shall issue a written decision regarding the appeal within 10 business days of receiving the appeal. If the parents are not satisfied with the component school superintendent’s decision, they must file a written appeal to the board of education with the district clerk within 10 business days of the date of the component school superintendents’ decision, unless they can show extraordinary circumstances precluding them from doing so. Only final decisions of the board may be appealed to the Commissioner within 30 days of the decision.

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

When the component school superintendent determines that a suspension for more than five days may be warranted, he/she shall give reasonable notice to the student and the student’s parents of their right to a fair hearing. At the hearing the

student shall have the right to be represented by counsel, the right to question witnesses against him/her and the right to present witnesses and other evidence on his/her behalf.

The component school superintendent shall personally hear and determine the proceeding or may, in his/her discretion, designate a hearing officer to conduct the hearing. The hearing officer shall be authorized to administer oaths and to issue subpoenas in conjunction with the proceeding before him/her. A record of the hearing shall be maintained, but no stenographic transcript shall be required. A tape recording shall be deemed a satisfactory record. The hearing officer shall make findings of fact and recommendations as to the appropriate measure of discipline to the component school superintendent. The report of the hearing officer shall be advisory only, and the district superintendent may accept all or any part thereof.

An appeal of the decision of the component school superintendent may be made to the board, which will make its decision based solely upon the record before it. All appeals to the board must be in writing and submitted to the district clerk within 10 business days of the date of the component school superintendent's decision, unless the parents can show that extraordinary circumstances precluded them from doing so. The board may adopt in whole or in part the decision of the component school superintendent. Final decisions of the board may be appealed to the Commissioner within 30 days of the decision.

c. Permanent suspension.

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

### **C. Minimum Periods of Suspension**

1. Students who bring a weapon to school.

Any student found guilty of bringing a weapon onto school property will be subject to suspension from school for at least one calendar year. A student with a disability shall be reviewed in accordance with Section X and Appendix A. Before being suspended, the student will have an opportunity for a hearing pursuant to Education Law § 3214.

The district superintendent has the authority to modify the one-year suspension on a case-by-case basis. In deciding whether to modify the penalty, the component school 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 district 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 five days. A student with a disability shall be reviewed in accordance with Section X and Appendix A. If the proposed penalty is the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parents will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The component school superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the district superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

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

Any student who repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom will be suspended from school for at least five days. A student with a disability shall be reviewed in accordance with Section X and Appendix A. For purposes of this code of conduct, "repeatedly is substantially disruptive" means engaging in conduct that results in the student being removed from the classroom by teacher(s) pursuant to Education Law §3214(3-a) and this code on four or more occasions during a semester. If the proposed penalty is the minimum five-day suspension, the student and the student's parent will be given the same notice and opportunity for an informal conference given to all students subject to a short-term suspension. If the proposed penalty exceeds the minimum five-day suspension, the student and the student's parent will be given the same notice and opportunity for a hearing given to all students subject to a long-term suspension. The component school superintendent has the authority to modify the minimum five-day suspension on a case-by-case basis. In deciding whether to modify the penalty, the component school superintendent may consider the same factors considered in modifying a one-year suspension for possessing a weapon.

#### **D. Referrals**

All referrals of students to counseling will be forwarded to the appropriate district/agency personnel.

1. Counseling
2. PINS Petitions

BOCES may file a PINS petition with regard to a Person in Need of Supervision as defined in the Family Court Act.

- a. Being habitually truant and not attending school as required by part one of Article 65 of the New York State Education Law.
- b. Engaging in an ongoing or continual course of conduct that 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 component school 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 component school superintendent is required to refer students age 16 and older or any student 14 or 15 years old who qualifies for juvenile offender status to the appropriate law enforcement authorities.

Education Law, §§ 2801, 3214

8 NYCRR, § 100.2(1)

Criminal Procedure Law § 1.20

Penal Law § 220.00(14)

20 USC § 8921

18 USC § 921

Appeal of Reeves, Dec. No. 13, 857 (1998) [involuntary transfer]

Appeal of Alexander, 36 Ed Dept Rep 160 (1996) [counseling]

Matter of Troy R., 29 Ed Dept Rep 424 (1990) [automatic penalties]

Appeal of Ward, 27 Ed Dept Rep 217 (1988) [indefinite suspension]

Appeal of Wood, 27 Ed Dept Rep 92 (1987) [suspension beyond school year]

Matter of Clark, 21 Ed Dept Rep 542 (1982) [extracurricular activities]

Matter of Caskey, 21 Ed Dept Rep 138 (1981) [reduction in grade]

Matter of MacWhinnie, 20 Ed Dept Rep 145 (1980) [reduction in grade]

Matter of Labriola, 20 Ed Dept Rep 74 (1980) [excessive penalty]

Matter of Roach, 19 Ed Dept Rep 377 (1980) [transportation; contingent suspensions]

Matter of Caulfield, 18 Ed Dept Rep 574 (1979) [suspension from classes]

Matter of Macheski, 13 Ed Dept Rep 112 (1973) [suspension by a principal]

Matter of DeVore, 11 Ed Dept Rep 296 (1972) [insufficient basis for discipline]

SED Memo to District Superintendents on detention, dated April 28, 1998 [limitations on imposition of detention]

## **IX. Alternative Instruction**

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

[Child Suspected of Having a Handicapping Condition, 31 Ed Dept Rep 42 \(1991\)](#)

[Appeal of Ackert, 30 Ed Dept Rep 31 \(1990\)](#)

[Matter of Malpiea, 20 Ed Dept Rep 365 \(1981\)](#)

## **X. Discipline of Students with Disabilities**

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

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

### **A. Authorized Suspensions or Removals of Students with Disabilities**

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

A “suspension” means a suspension pursuant to Education Law § 3214.

For purposes of change in placement, a “removal” means a removal of a student with a disability for disciplinary reasons from that student’s current educational placement, other than suspension; and the change of placement of a student with a disability to an IAES by a superintendent of schools for behavior involving weapons, illegal drugs or controlled substances, or by an impartial hearing officer in a dangerous situation.

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

2. School personnel may order the suspension or removal of a student with a disability from his/her current educational placement pursuant to Appendix B.
  - a. The board, the district superintendent of schools or a building administrator may order the placement of a student with a disability into an IAES, another setting or suspension for a period not to exceed five consecutive school days and not to exceed the amount of time a non-disabled student would be subject to suspension for the same behavior.
  - b. The component school superintendent may order the placement of a student with a disability into an IAES, another setting or suspension for up to 10 consecutive school days, inclusive of any period in which the student has been suspended or removed under subparagraph (a) above for the same behavior, if the component school superintendent determines that the student

has engaged in behavior that warrants a suspension and the suspension or removal does not exceed the amount of time non-disabled students would be subject to suspension for the same behavior.

- c. The component school superintendent may order the placement of a student with a disability in an IAES to be determined by the component school district Committee on Special Education (CSE), for the same amount of time that a student without a disability would be subject to discipline, but not more than 45 days, if the student carries or possesses a weapon to school or to a school function, or the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.
  - 1) "Weapon" means the same as "dangerous weapon" under 18 U.S.C. § 930(g)(w) which includes "a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except. . . [for] a pocket knife with a blade of less than 2 1/2 inches in length."
  - 2) "Controlled substance" means a drug or other substance identified in certain provisions of the federal Controlled Substances Act specified in both federal and state law and regulations applicable to this policy.
  - 3) "Illegal drugs" means a controlled substance except for those legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under the Controlled Substances Act or any other federal law.
3. Subject to specified conditions required by both federal and state law and regulations, an impartial hearing officer may order the placement of a student with a disability in an IAES setting for up to 45 days at a time, if maintaining the student in his/her current educational placement poses a risk of harm to the student or others.
4. At the end of the 45-day period, the student must be returned to his/her educational setting unless other provisions have been specifically enacted.

## **B. Change of Placement Rule**

1. A disciplinary change in placement means a suspension or removal from a student's current educational placement that is either:
  - a. for more than 10 consecutive school days; or
  - b. for a period of 10 consecutive school days or less if the student is subjected to a series of suspensions or removals that constitute a pattern because they accumulate to more than 10 school days in a school year and because of such factors as the length of each suspension or removal, the total amount of time the student is removed and the proximity of the suspensions or removals to one another.
2. BOCES personnel may not suspend or remove a student with disabilities if imposition of the suspension or removal would result in a disciplinary change in placement based on a pattern of suspension or removal.

However, the BOCES may impose a suspension or removal, which would otherwise result in a disciplinary change in placement, based on a pattern of suspensions or removals if the CSE of the component school district has determined that the behavior was not a manifestation of the student's disability, or the student is placed in an IAES for behavior involving weapons, illegal drugs or controlled substances.

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

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

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

If one or more members of the CSE believe that modifications are needed, the school district shall convene a meeting of the CSE to modify such plan and its implementation, to the extent the committee determines necessary.
  - b. Conduct a manifestation determination review of the relationship between the student's disability and the behavior subject to disciplinary action whenever a decision is made to place a student in an IAES either for misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension that constitutes a disciplinary change in placement. (Refer to Appendix C)
2. The parents of a student who is facing disciplinary action, but who has not been determined to be eligible for services under IDEA and Article 89 at the time of misconduct, shall have the right to invoke applicable procedural safeguards set forth in federal and state law and regulations if, in accordance with federal and state statutory and regulatory criteria, the BOCES is deemed to have had knowledge that their child was a student with a disability before the behavior precipitating disciplinary action occurred. If the BOCES is deemed to have had such knowledge, the student will be considered a student presumed to have a disability for disciplinary purposes. (Refer to Appendix D)
  - a. The district superintendent, building administrator imposing a suspension or removal shall be responsible for determining whether the student is a student presumed to have a disability.

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

- 1) conducted an individual evaluation and determined that the student is not a student with a disability, or
- 2) determined that an evaluation was not necessary and provided notice to the parents of such determination, in the manner required by applicable law and regulations.

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

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

3. The component school district shall provide parents with notice of disciplinary removal no later than the date on which a decision is made to change the placement of a student with a disability to an IAES for either misconduct involving weapons, illegal drugs or controlled substances or because maintaining the student in his/her current educational setting poses a risk of harm to the student or others; or a decision is made to impose a suspension or removal that constitutes a disciplinary change in placement. The procedural safeguards notice prescribed by the Commissioner shall accompany the notice of disciplinary removal.
4. The parents of a student with disabilities subject to a suspension of five consecutive school days or less shall be provided with the same opportunity for an informal conference available to parents of non-disabled students under the New York State Education Law.
5. Superintendent hearings on disciplinary charges against students with disabilities subject to a suspension of more than five school days shall be bifurcated into a guilt phase and a penalty phase in accordance with the procedures set forth in the Commissioner's regulations incorporated into this code.
6. The removal of a student with disabilities other than a suspension or placement in an IAES shall be conducted in accordance with the due process procedures applicable to such removals of non-disabled students, except that school personnel may not impose such removal for more than 10 consecutive days or for a period that would result in a disciplinary change in placement, unless the CSE has determined that the behavior is not a manifestation of the student's disability.
7. During any period of suspension or removal, including placement in an IAES, students with disabilities shall be provided services as required by the Commissioner's regulations incorporated into this code.

#### **D. Expedited Due Process Hearings**

1. An expedited due process hearing shall be conducted in the manner specified by the Commissioner's regulations incorporated into this code if:
  - a. The component school district requests such a hearing to obtain an order of an impartial hearing officer placing a student with a disability in an IAES where school personnel maintain that it is dangerous for the student to be in his/her current educational placement, or during the pendency of due process hearings where school personnel maintain that it is dangerous for the student to be in his/her current educational placement during such proceedings.
  - b. The parent requests such a hearing from a determination that the student's behavior was not a manifestation of the student's disability, or relating to any decision regarding placement, including, but not limited to, any decision to place the student in an IAES.
    - 1) During the pendency of an expedited due process hearing or appeal regarding the placement of a student in an IAES for behavior involving weapons, illegal drugs or controlled substances, or on grounds of dangerousness, or regarding a determination that the behavior is not a manifestation of the student's disability for a student who has been placed in an IAES, the student shall remain in the IAES pending the decision of the impartial hearing officer or until expiration of the IAES placement, whichever occurs first, unless the parents and the district agree otherwise.
    - 2) If school personnel propose to change the student's placement after expiration of an IAES placement, during the pendency of any proceeding to challenge the proposed change in placement, the student shall remain in the placement prior to removal to the IAES, except where the student is again placed in an IAES.
2. An expedited due process hearing shall be completed within 15 business days of receipt of the request for a hearing. Although the impartial hearing officer may grant specific extensions of such time period, he or she must mail a written decision to the district and the parents within five business days after the last hearing date, and in no event later than 45 calendar days after receipt of the request for a hearing, without exceptions or extensions.

#### **E. Referral to Law Enforcement and Judicial Authorities**

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

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

**F. Referral to Law Enforcement and Judicial Authorities**

The BOCES will continue to incorporate the State Education Department publication *Discipline Procedures for Students with Disabilities* (January 2001) and subsequent revisions in the code of conduct.

20 USC § 1415

Article 89 of Education Law

34 CFR §§ 300.519-300, 528

Part 201 of the Commissioner's Regulations

## **XI. Corporal Punishment**

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

8 NYCRR §§ 19.5(a)-(c), 100.2(1)(3)(i)

## **XII. Alternative Procedures**

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

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

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

8 NYCRR §§ 19.5(a)-(c), 100.2(1)(3)(i)

### **XIII. Student Searches and Interrogations**

The board of education is committed to ensuring an atmosphere on BOCES property and at BOCES functions that is safe and orderly. To achieve this kind of environment, any BOCES official authorized to impose a disciplinary penalty on a student may question a student about an alleged violation of law or the code of conduct. Students are not entitled to any sort of *Miranda*-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, BOCES officials will tell all students why they are being questioned.

In addition, the board authorizes the district superintendent, building administrator, the school nurse and BOCES security officials to conduct searches of students and their belongings if the authorized BOCES official has reasonable suspicion to believe that the search will result in evidence that the student violated the law or the code of conduct.

An authorized BOCES official may search a student or the student's belongings based upon information received from a reliable informant. Individuals, other than the BOCES employees, will be considered reliable informants if they have previously supplied information that was accurate and verified, or they make an admission against their own interest, or they provide the same information that is received independently from other sources, or they appear to be credible and the information they are communicating relates to an immediate threat to safety. BOCES employees will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.

Before searching a student or the student's belongings, the authorized BOCES official should, if possible, ascertain whether the student is willing to admit to possession of physical evidence that they violated either the law or code of conduct, or whether they are willing to voluntarily consent to the search.

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

#### **A. Student Lockers, Desks and Other School Storage Places**

The rules in this code of conduct regarding searches of students and their belongings apply to student lockers, desks and other school storage places. Students have no reasonable expectation of privacy with respect to these places, and school officials retain complete control over them. This means that student lockers, desks and other BOCES storage places may be subject to search at any time by school officials, without prior notice to students and without their consent.

#### **B. Documentation of Searches**

The authorized BOCES official conducting the search shall be responsible for promptly recording the following information about each search on the BOCES form provided for that purpose:

1. Name, age and grade of student searched.
2. Reasons for the search.

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

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

### **C. Police Involvement in Searches and Interrogations of Students**

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

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

Before police officials are permitted to question or search any student, the building administrator/designee shall first try to notify the student's parent to give the parent the opportunity to be present during the police questioning or search. The building administrator/designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on BOCES property or at a BOCES function will be afforded the same rights they have outside the school. This means:

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

### **D. Child Protective Services Investigations**

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

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

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

*New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

*People v. Scott Dred*, 34 N.Y.2d 483 (1974)

*In Re Gregory*, 82 N.Y.2d 588 (1993)

*Tenenbaum v. Williams*, 193 F.3d 581 (2d Cir. 1999)

*People v. Overton*, 20 N.Y.2d 360 (1969)

SED Opinion of Council, 1 Ed Dept Rep 800 (1959)

## **XIV. Visitors to the BOCES**

The BOCES encourages parents, community members and other citizens to visit the BOCES 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 administrator/designee and/or director of facilities/designee are responsible for all persons in the building and on the grounds. For these reasons, the following rules apply to visitors to the BOCES programs:

1. Anyone who is not a BOCES staff member or a BOCES student will be considered a visitor.
2. All visitors to the instructional program must report 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 BOCES grounds. The visitor must return the identification badge to the building administrator's office before leaving the building.
3. Visitors attending BOCES functions that are open to the public, such as parent-teacher organization meetings or public gatherings, are not required to register.
4. Parents or visitors 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 BOCES property will be reported to the building administrator/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 BOCES property contained in this code of conduct.

## **XV. Public Conduct on BOCES Property**

The Board of Cooperative Educational Services (BOCES) is committed to providing an orderly, respectful environment that is conducive to learning. To create and maintain this kind of an environment, it is necessary to regulate public conduct on BOCES property and at BOCES functions. For purposes of this section of the code, "public" shall mean all persons when on BOCES property or attending a BOCES function including students, teachers and other BOCES personnel.

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

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

### **A. Prohibited Conduct**

No person, either alone or with others, shall:

1. Intentionally injure any person or threaten to do so.
2. Intentionally damage, remove or destroy BOCES property or the personal property of a teacher, administrator, other employees or any person lawfully on BOCES property. Such actions include graffiti or arson.
3. Disrupt the orderly conduct of classes, BOCES programs or other BOCES activities.
4. Distribute or wear materials on BOCES grounds or at BOCES functions that are obscene, advocate illegal action, appear libelous, obstruct the rights of others or are disruptive to the BOCES program.
5. Intimidate, harass 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 BOCES premises without authorization or remain in any building or facility after it is normally closed.
7. Obstruct the free movement of any person in any place to which this code applies.
8. Violate the traffic laws, parking regulations or other restrictions on vehicles.
9. Possess, consume, sell, distribute or exchange alcoholic beverages, controlled substances, or be under the influence of either on BOCES property or at a BOCES function.
10. Possess or use weapons in or on BOCES property or at a BOCES function, except in the case of law enforcement officers or except as specifically authorized by the BOCES organization.
11. Loiter on or about BOCES property.
12. Gamble on BOCES property or at BOCES functions.

13. Refuse to comply with any reasonable order of identifiable BOCES 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 BOCES property or while at a BOCES function.

## **B. Dress Code**

Faculty and staff handbooks will set forth a general dress code, which does not infringe upon individual rights. The BOCES does not generally prescribe faculty/staff and visitor dress while these persons are on BOCES grounds if fashion or taste is the major criterion. However, the BOCES will impose restrictions when a faculty/staff member's or visitor's dress is clearly dangerous, given the activity in which they are participating, or so inappropriate as to interfere with the orderly conduct of a BOCES activity, the learning and/or the teaching process. In particular, faculty/staff are asked to consider that their dress can be construed as a model for students and careful judgment needs to be exercised in the selection of appropriate clothing and attire while representing the BOCES.

Individual faculty/staff and visitors have the responsibility for their own dress and general appearance. Faculty/staff and visitors are required to attend BOCES classes and activities in appropriate dress that meets health and safety standards and does not interfere with BOCES activities and/or the education of BOCES students.

When necessary, faculty/staff and visitors will be asked to wear appropriate protective gear in certain classes and/or activities (i.e., home economics, health occupations, shop, P.E., construction sites, etc.). Clothing and attire which have an expression (phrase, word or words) or insignia (picture, symbol, patch or pin) which is obscene, sexually suggestive or libelous (that is, which contains objectionable language, including insults, whether directed to themselves or others), or which advocates racial or religious prejudice is forbidden.

If found wearing such attire, faculty/staff and visitors may be asked to return home and change clothes prior to returning to the BOCES. For faculty/staff involved in such an event, continued wearing of inappropriate clothing and attire may lead to disciplinary action.

## **C. Penalties**

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

1. Visitors. Their authorization, if any, to remain on BOCES grounds or at the BOCES 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.

#### **D. Enforcement**

The building administrator/designee shall be responsible for enforcing the conduct required by this code. When the building administrator/designee sees an individual engaged in prohibited conduct, which in his/her judgment does not pose any immediate threat of injury to persons or property, the building administrator/designee shall tell the individual that the conduct is prohibited and attempt to persuade the individual to stop. The building administrator/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 building administrator/designee shall have the individual removed immediately from BOCES property or the BOCES function. If necessary, local law enforcement authorities will be contacted to assist in removing the person.

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

Education Law § 2801

## **XVI. 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.
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 students attending BOCES programs 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.
5. Providing all new employees with a copy of the current code of conduct when they are first hired.
6. Making copies of the code available for review by students, parents and other community members.

The code of conduct will be posted on the BOCES website.

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

The board may appoint an advisory committee to assist in reviewing the code and the BOCES response to code of conduct violations. The committee will be made up of representatives of student, teacher, administrator and parent organizations; BOCES safety personnel; and other BOCES personnel.

Before adopting any revisions to the code, the board will hold at least one public hearing at which BOCES personnel, parents, students and any other interested party may participate.

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

Education Law § 2801(4) and (5)  
8 NYCRR § 100.2(1)(ii)(p) and (iii)

## Appendix A

### INTERIM ALTERNATIVE EDUCATIONAL SETTINGS

Reference: [Sections 201.7 and 201.8 of the Regulations of the Commissioner of Education](#)

A student with a disability may be removed by school officials to an interim alternative educational setting (IAES) for up to 45 calendar days if the student carries or possesses a weapon to or at school, on school premises, or to or at a school function or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function. If school personnel maintain that it is dangerous for the student to return to the placement prior to the student's removal to an IAES, they may initiate an expedited due process hearing to obtain an order from an impartial hearing officer, in accordance with the process described below, allowing them to maintain the student in the IAES or in another IAES for an additional period up to 45 days. The procedure may be repeated as necessary.

An impartial hearing officer (IHO) may order a change in placement of a student with a disability to an IAES for not more than 45 calendar days if the impartial hearing officer determines that the school district has demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others. In making this decision, the IHO must consider the appropriateness of the student's current placement and whether the school has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services. The IHO must determine that the IAES proposed by school personnel meets the federal standard for an IAES.

An IAES is a setting that must:

- be selected to enable the student to:
  1. continue to progress in the general curriculum; and
  2. continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the IEP goals; and
- include services and modifications to address the behavior that is subject to disciplinary action. These services and modifications must be designed to prevent the behavior from recurring.

A student whose behavior may warrant a removal to an interim alternative educational setting may first be removed by school personnel for not more than ten consecutive days or until the removal otherwise constitutes a disciplinary change of placement. During that ten-day or less removal, alternative instruction (for students who have not already been removed for ten school days in the school year) or FAPE (beginning on the 11<sup>th</sup> day of removal in the school year) as determined by school personnel in consultation with the student's special education teacher would be provided. This allows time for the CSE or the IHO, as appropriate, to determine the setting for the interim alternative educational setting.

The following chart summarizes the requirements relating to placements in an IAES.

**Appendix A cont.**

**INTERIM ALTERNATIVE EDUCATIONAL SETTINGS**

<b>Suspension or Removal to an IAES</b>	<b>Type of Hearing</b>	<b>Length of Removal</b>	<b>Setting</b>
<p>Illegal Drugs/Controlled Substances/Weapons - removal by a school superintendent:</p> <p>Student carries or possesses a weapon to or at school, on school premises, or to or at a school function</p> <p>Student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.</p>	<p><a href="#">Section 3214</a> Superintendent's hearing</p>	<p>For each incident: Up to 45 calendar days. Cannot exceed period of suspension ordered by the superintendent. Cannot exceed the amount of time that a non-disabled student would be suspended for the same behavior.</p>	<p>Determined by the CSE</p>
<p>Dangerous situations - removal by an impartial hearing officer (IHO):</p> <p>The IHO must:</p> <ol style="list-style-type: none"> <li>1. Determine that the school district demonstrated by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.</li> <li>2. Consider the appropriateness of the student's current placement.</li> <li>3. Consider whether the school district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services.</li> <li>4. Determine that the IAES proposed by school personnel is an appropriate setting.</li> </ol>	<p>Impartial hearing pursuant to 8NYCRR <a href="#">Section 200.5(i)</a></p>	<p>For each incident: Up to 45 calendar days. This procedure may be repeated as necessary.</p>	<p>Determined by the IHO based on a setting proposed by school personnel in consultation with the student's special education teacher.</p> <p>In proposing the setting, school personnel may rely on the judgments of the CSE.</p> <p>The IHO may revise or modify the proposed placement as necessary to meet the statutory standard.</p>

## Appendix B

### PROVISION OF EDUCATIONAL SERVICES TO STUDENTS WITH DISABILITIES SUSPENDED OR REMOVED FOR DISCIPLINARY REASONS

When	Responsibility	What	Education Services/FAPE
<p><b>Days 1-10:</b> First 10 school days of suspension for students of compulsory school age</p> <p>First 10 school days of suspension for students who are not of compulsory school age</p>	<p>School official imposing the suspension or other school personnel delegated such authority</p>	<p>Setting for suspension and alternative instruction to be provided</p>	<p><b>Alternative Instruction for students of compulsory school age:</b> Alternative instruction must be provided to the same extent as is provided to non-disabled students (Minimum 1 hour per day for elementary students; minimum 2 hours per day for secondary students).</p> <p><b>For students not of compulsory school age:</b> Services to the same extent, if any, that the district provides to students without disabilities who are not of compulsory school age.</p>
<p><b>More than 10 days, and <u>not</u> a change of placement:</b> During subsequent suspensions or removals for periods of up to 10 school days or less that in the aggregate total more than 10 school days in a school year but <u>do not</u> constitute a disciplinary change of placement</p>	<p>School official imposing the suspension or other school personnel delegated such authority</p> <p>School official in consultation with the student's special education teacher</p>	<p>Setting for suspension</p> <p>Services necessary to provide FAPE</p>	<p><b>Free appropriate public education:</b> Provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.</p>
<p><b>More than 10 days and a change of placement:</b> Suspensions or removals for periods in excess of 10 school days in a school year which <u>do</u> constitute a disciplinary change in placement - if the behavior is <u>not a manifestation</u> of the disability</p>	<p>School official imposing the suspension or other school personnel delegated such authority</p> <p>CSE</p>	<p>Setting for suspension</p> <p>Services necessary to provide FAPE</p>	<p><b>Free appropriate public education:</b> Provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP.</p>



## Appendix C

### CSE RESPONSIBILITIES FOR FUNCTIONAL BEHAVIORAL ASSESSMENTS AND BEHAVIORAL INTERVENTION PLANS

FIRST TIME A STUDENT IS SUSPENDED OR REMOVED FOR MORE THAN TEN SCHOOL DAYS IN A SCHOOL YEAR OR SUBSEQUENT SUSPENSIONS OR REMOVALS IN THE SAME SCHOOL YEAR THAT CONSTITUTE A DISCIPLINARY CHANGE OF PLACEMENT		
What	Who	When <sup>2</sup>
<p>Convene a CSE meeting to develop a functional behavioral assessment (FBA) plan.</p> <p><b>OR</b></p> <p>Convene a CSE meeting to review and modify, if necessary, an existing behavioral intervention plan (BIP) and its implementation.</p>	CSE	No later than ten business days after first suspending or removing a student for more than ten school days in a school year or imposing a suspension or removal that constitutes a disciplinary change of placement, including a change of placement to an IAES for illegal drugs, controlled substances or weapons.
<p>Convene a CSE meeting to develop and implement a behavioral intervention plan based on the results of the FBA if the student does not have an existing BIP.</p>	CSE	As soon as practicable after developing the behavioral assessment plan and completing the assessments required by the plan.

SUBSEQUENT SUSPENSIONS OR REMOVALS IN THE SAME SCHOOL YEAR THAT DO NOT CONSTITUTE A DISCIPLINARY CHANGE IN PLACEMENT		
What	Who	When
<p>Review an existing behavioral intervention plan and its implementation.</p>	Each CSE member individually reviews.	As soon as practicable after the suspension or removal is initiated or imposed.
<p>Convene a CSE meeting if one or more members believe modifications to the plan or its implementation are needed.</p> <ul style="list-style-type: none"> <li>▪ Review the student's behavioral intervention plan and its implementation.</li> <li>▪ Modify, as necessary, the behavioral intervention plan and its implementation.</li> </ul>	CSE	As soon as practicable after any of the CSE members indicate the need to convene a meeting.

<sup>2</sup>This meeting may be conducted at the same meeting when a manifestation determination or the determination of the IAES setting is being made

## Appendix C cont.

In conducting a functional behavioral assessment (FBA), the CSE determines why a student engages in behaviors that impede learning and how the student's behavior relates to the environment. This must include, but is not limited to:

- the **identification** of the problem behavior;
- the **definition** of the behavior in concrete terms;
- the identification of the **contextual factors** (e.g., environmental, physical, instructional approaches, or other events) that contribute to the behavior, including cognitive (e.g., memory, problem-solving ability, ability to plan, initiate and/or inhibit behavior, ability to monitor behavior, attention, perception, organizing processes) and **affective factors** (e.g., emotional factors such as mood swings, depression, frustration tolerance); and
- the formulation of a **hypothesis** or a theory regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it.

Once a functional behavioral assessment has been conducted, a behavioral intervention plan (BIP) for that behavior must be developed and implemented. The BIP must be based on the results of the FBA and, at a minimum, must include:

- a **description** of the problem behavior;
- **global and specific hypotheses** as to why the problem behavior occurs. A specific hypothesis is a statement that specifies the events or factors that trigger the behavior and the function that behavior serves for the student. A global hypothesis identifies those broad influences in the student's life (such as health, routines, relationships and student skills) that relate to the behavior; and
- **intervention strategies** to address the behavior.

In designing intervention strategies, the CSE should consider the results of the functional behavioral assessment, the student's strengths and the concerns of the parent. The behavioral intervention plan should include positive strategies to address, as appropriate, the events or situations that trigger a behavior, instruction in alternative skills, consequences, and long-term prevention. The CSE should also determine the supports, if any, needed by school personnel (e.g., administrative, material, environmental, instructional or informational supports) to implement those strategies and a plan to evaluate the effectiveness of the behavioral intervention plan.

The July 1998 memorandum [Guidance on Functional Behavioral Assessments for Students with Disabilities](#) (Policy 98-05) provides further information on conducting an FBA.

## Appendix C cont.

### Committee on Special Education GUIDELINES FOR ASSESSING AND ADDRESSING BEHAVIORS

Functional Behavioral Assessment	Behavioral Intervention Plan
<ul style="list-style-type: none"><li>▪ Develop a plan to conduct a functional behavioral assessment of the student's behavior or review an existing functional behavioral assessment:<ul style="list-style-type: none"><li>○ Identify the behavior that needs to be assessed.</li><li>○ Determine how the function of the student's behavior and the circumstances and factors associated with both the occurrence and non-occurrence of the behavior will be assessed.</li><li>○ Determine who will be responsible for conducting the planned assessment.</li><li>○ Determine who will coordinate the written report of the assessment.</li><li>○ Establish a date for the assessments to be completed.</li></ul></li></ul>	<ul style="list-style-type: none"><li>▪ Develop or review an existing behavioral intervention plan based on the results of the functional behavioral assessment:<ul style="list-style-type: none"><li>○ Identify the behavior.</li><li>○ Define the behavior in concrete terms.</li><li>○ Select supports and interventions to address, as appropriate:<ul style="list-style-type: none"><li>• antecedent and setting events</li><li>• alternative skills instruction</li><li>• consequence strategies that build skills and reduce problem behaviors</li><li>• long-term prevention</li><li>• support for team members</li></ul></li><li>○ Identify resources available, or that need to become available, to implement the plan.</li><li>○ Identify who will do what, when and how.</li><li>○ Determine a plan for monitoring the effectiveness of the supports and interventions.</li><li>○ Develop a timetable for the review and monitoring of the plan.</li></ul></li><li>▪ Determine what, if any, changes need to be made to a student's IEP and/or behavioral intervention plan as a result of review.</li></ul>

## Appendix D

### PROCEDURES FOR DETERMINING IF A STUDENT IS A STUDENT PRESUMED TO HAVE A DISABILITY FOR DISCIPLINE PURPOSES

WHAT	WHO	ACTIONS TO BE TAKEN
<p>Parent asserts that the school had knowledge that the student was a student with a disability prior to the behavior that precipitated the disciplinary action.</p>	<p>Superintendent, principal or school official imposing the suspension or removal</p> <p>Superintendent, principal or school official imposing the suspension or removal</p> <p>CSE</p>	<p>Determine if the student is a student presumed to have a disability.</p> <p><b>If no:</b> Suspend or remove the student as a non-disabled student.</p> <p>If a request for an individual evaluation is made while the student is suspended or removed, refer to the CSE for an expedited evaluation.</p> <p><b>If yes:</b> Conduct an individual evaluation, eligibility determination, develop the IEP, determine manifestation, and assess and address the behavior, as appropriate.</p>
<p>Parent disagrees with the determination of the school official that the student is not a student presumed to have a disability for discipline purposes.</p>	<p>Board of Education</p>	<p>Arrange for mediation or a due process hearing at the written request of the parent.</p> <p>Pending the outcome of a due process hearing, the student remains in his/her current placement, which could include suspension.</p>