

CODE OF STUDENT CONDUCT

The Board believes that an effective instructional program requires an orderly school environment and that the effectiveness of the educational program is, in part, reflected in the behavior of students.

The Board of Education expects students to conduct themselves in keeping with their level of maturity, with a proper regard for the rights and welfare of other students, for school personnel, for the educational purpose underlying all school activities, and for the care of school facilities and equipment.

The Board of Education believes that standards of student behavior must be set cooperatively by interaction among the students, parents/guardians, staff and community, producing an atmosphere that encourages students to grow in self-discipline. Such an atmosphere must include respect for self and others, as well as for district and community property on the part of students, staff and community members.

The Code of Student Conduct has been established to achieve the following purposes:

- A. Foster the health, safety and social and emotional well-being of students;
- B. Support the establishment and maintenance of civil, safe, secure, supportive and disciplined school environments conducive to learning;
- C. Promote achievement of high academic standards;
- D. Prevent the occurrence of problem behaviors; establish parameters for the intervention and remediation of student problem behaviors at all stages of identification; and
- E. Establish parameters for school responses to violations of the Code of Student Conduct that take into account, at a minimum, the severity of the offenses, the developmental ages of the student offenders and students' histories of inappropriate behaviors.

The Code of Student Conduct shall include:

- A. A description of student responsibilities that includes expectations for academic achievement, behavior and attendance;
- B. A description of the behaviors that will result in suspensions or expulsion;

- C. A description of students' right to:
  - 1. Advance notice of behaviors that will result in suspensions and expulsions;
  - 2. Education that supports students' development into productive citizens;
  - 3. Attendance in safe and secure school environments;
  - 4. Attendance at school irrespective of students' marriage, pregnancy or parenthood;
  - 5. Due process and appeal procedures;
  - 6. Parent notification consistent with the policies and procedures;
  - 7. Student protections pertaining to federal and state laws.
  
- D. A description of comprehensive behavioral supports that promote positive student development and the students' abilities to fulfill the behavioral expectations established by the Board, including:
  - 1. Positive reinforcement for good conduct and academic success;
  - 2. Supportive interventions and referral services;
  - 3. Remediation of problem behaviors that take into account the nature of the behaviors, the developmental ages of the students and the student's histories of problem behaviors and performance; and
  - 4. For students with disabilities, the behavior interventions and supports as determined and provided as required by special education administrative code;
  
- E. A description of school responses to violations of the behavioral expectations established by the Board that, at a minimum are graded according to the severity of the offenses, consider the developmental ages of the student offenders and students' histories of inappropriate behaviors that :
  - 1. Include a continuum of actions designed to remediate and, where necessary or required by law, to impose sanctions;
  - 2. Be consistent with other responses as established in the various codes;
  - 3. Provide for the equitable application of the Code of Student Conduct without regard to race, color, religion, ancestry, national origin, gender, sexual orientation, gender identity and expression, or a mental, physical or sensory disability or by any other distinguishing characteristic;
  - 4. Be consistent with the provision of state statute and administrative code regarding corporal punishment of students;
  - 5. A policy and procedures regarding the attendance of students;
  - 6. A policy and procedures regarding intimidation, harassment and bullying in accordance to state statute and administrative code; and

7. A current list of community-based health and social service provider agencies available to support a student and the student's family, as appropriate, and a list of legal resources available to service the community.
- F. The due process procedures and policies for students and their families to include the provision as set forth in state statute and administrative code.

The Chief School Administrator has the right and authority to impose a consequence on a student for conduct away from school grounds pursuant to N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.6. This authority shall be exercised only when it is reasonably necessary for the student's physical or emotional safety, security and well-being or for reasons relating to the safety, security and well-being of other students, staff or school grounds, pursuant to N.J.S.A. 18A:25-2 and 18A:37-2 or when the conduct which is the subject of the proposed consequence materially and substantially interferes with the requirements of appropriate discipline in the operation of the school. The Board shall direct development of detailed regulations suited to the age level of the students and the physical facilities of the individual schools.

Board policy requires each student of this district to adhere to the rules and regulations established by the administration and to submit to such disciplinary measures as are appropriately assigned for infraction of those rules.

The Chief School Administrator shall provide to students and their parents/guardians the rules of this district regarding student conduct and the sanctions that may be imposed for breach of those rules. Provisions shall be made for informing parents/guardians whose primary language is other than English.

The standards and procedures to implement this policy shall provide appropriate recognition for students who consistently maintain high standards of self-discipline and good citizenship and ensure the Code of Student Conduct is based on locally determined and accepted core values and is board approved.

The regulations shall:

- A. Require students to conform to reasonable standards of socially acceptable behavior; respect the person, property and rights of others; obey constituted authority and respond to those who hold that authority;
- B. Establish the degree of order necessary to the educational program in which students are engaged.

This policy shall be reviewed annually and updated. This process shall include:

- A. Parent, student and community involvement which represents, where possible, the composition of the schools and community, in accordance with N.J.A.C. 6A:16-7.1;
- ~~B.~~ Consideration of the findings of the annual reports of student conduct, suspensions and expulsions; and incidences reported under the Student Safety Data System (SSDS).

The Chief School Administrator shall annually:

- A. Disseminate the Code of Student Conduct to all staff, students and parents;
- B. Report on the implementation of the Code of Student Conduct to the board of education at a public meeting in accordance with N.J.A.C. 6A:16-7.1(a) 5, i-iv.
- C. Report to the New Jersey Department of Education on student conduct, including all student suspension and expulsion and incidences reported under the Student Safety Data System (SSDS).

Students who display chronic behavioral or academic problems may be referred to the child study team by the Chief School Administrator for an evaluation to determine disability or the need for other services. Such referrals shall be in strict accordance with the due process regulations prescribed by the administrative code. Students so identified shall be provided with appropriate programs and services as prescribed by the child study team.

A student whose presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process, may be suspended in accordance with N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.3 or expelled in accordance with N.J.A.C. 6A:16-7.5, following due process. However, one incident alone is not sufficient cause for an expulsion.

Any student who commits an assault (as defined by N.J.S.A. 2C:12-1) upon a Board member, teacher, administrator or other employee of the board of education shall be suspended from school immediately according to procedural due process, and suspension in accordance with N.J.A.C. 6A:16-7.1 and N.J.A.C. 6A:16-7.3 or expulsion in accordance with N.J.A.C. 6A:16-7.5. However, one incident alone is not sufficient cause for an expulsion. Proceedings shall begin no later than 30 calendar days from the date of the student's suspension.

### Substance Abuse

In accordance with statute and code, penalties shall be assigned for use, possession and distribution of proscribed substances and drug paraphernalia. The penalties shall be graded according to the severity of the offense in accordance with Policy File Code No. 5131.6 Drug, Alcohol and Tobacco.

Infractions shall be reported to the local law enforcement agency in accordance with the district's memorandum of agreement. Confidentiality shall be protected in accordance with federal and state law.

Weapons Offenses

Any student who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property or on a school bus or at a school-sponsored function shall be immediately removed from the school's regular education program for a period of not less than one calendar year. The Chief School Administrator may modify this suspension on a case-by-case basis. Each student so removed shall be placed in an alternative education program or on home instruction pending alternative education program placement and shall be entitled to a hearing before the board. The hearing shall take place no later than 30 days following the day the student is removed from the regular education program and shall be closed to the public.

The principal shall be responsible for the removal of such students and shall immediately report them to the Chief School Administrator. The principal shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

The Chief School Administrator shall determine at the end of the year whether the student is prepared to return to the regular education program, in accordance with N.J.A.C. 6A:16-5.5(i).

Teaching staff members and other employees of this board having authority over students shall take such lawful means as may be necessary to control the disorderly conduct of students in all situations and in all places where such students are within the jurisdiction of this board.

Harassment, Intimidation or Bullying

The Board of Education expects all students to treat each other with civility and respect, and will not tolerate acts of harassment, intimidation or bullying. Like other disruptive or violent behaviors, this conduct interferes with a student's ability to learn and a school's ability to educate its students in a safe environment.

The Board prohibits acts of harassment, intimidation or bullying against any student in accordance with board policy File Code No. 5131.1 Harassment, Intimidation and Bullying, and law.

"Harassment, intimidation or bullying" is defined as any gesture, any written, verbal or physical act, or any electronic communication, whether it be a single incident or a series of incidents, that is reasonably perceived as being motivated either by any actual or perceived characteristic, such as race, color, religion, gender, a mental, physical or sensory disability, sexual orientation, gender identity or expression, national origin or ancestry, or by any other distinguishing characteristic, that takes place on school property, at any school-sponsored function or on a school bus, or off school grounds in accordance with law and that:

- A. Substantially disrupts or interferes with the orderly operation of the school or the rights of other students;

- B. A reasonable person should know, under the circumstances, will have the effect of physically or mentally harming a student or damaging the student’s property, or placing a student in reasonable fear of physical or mental harm to his/her person or damage to his/her property;
- C. Has the effect of insulting or demeaning any student or group of students; or
- D. Creates a hostile educational environment by interfering with the student’s education or by severely or pervasively causing physical or emotional harm to the student.

“Electronic communication” means a communication that is transmitted by means of an electronic device, including, but not limited to a telephone, cellular phone, computer, or pager that takes place on school property, at any school-sponsored function or on a school bus.

Classified students are subject to the same disciplinary procedures as nondisabled students and may be disciplined in accordance with the IEP. However, before disciplining a classified student, it must be determined that:

- A. The student’s behavior is not primarily caused by his/her educational disability;
- B. The program that is being provided meets the student’s needs.

Staff shall comply with State and federal law and the regulations of the New Jersey administrative code in dealing with discipline and/or suspension of all students with disabilities.

The Chief School Administrator shall ensure that the rules for this policy are applied consistently with N.J.A.C. 6A:16-7 and all applicable laws and regulations and that all disciplinary sanctions are carried out with necessary due process.

This and all related policies shall be reviewed on a regular basis.

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<b>Second Reading:</b>	May 10, 2018

Legal References:	<u>N.J.S.A.</u> 2A:4A-60 <u>et al.</u>	Disclosure of juvenile information; penalties for disclosure
	<u>N.J.S.A.</u> 2C:12-1	Definition of assault
	<u>N.J.S.A.</u> 2C:33-19	Paging devices, possession by students
	<u>N.J.S.A.</u> 2C:39-5	Unlawful possession of weapons
	<u>N.J.S.A.</u> 18A:6-1	Corporal punishment of students
	<u>N.J.S.A.</u> 18A:11-1	General mandatory powers and duties
	<u>N.J.S.A.</u> 18A:25-2	Authority over students
	<u>N.J.S.A.</u> 18A:36-19a	Newly enrolled students; records and identification
	<u>N.J.S.A.</u> 18A:37-1 <u>et seq.</u>	Discipline of Students
	See particularly:	
	<u>N.J.S.A.</u> 18A:37-15	
	<u>N.J.S.A.</u> 18A:40A-1 <u>et seq.</u>	Substance Abuse
	<u>N.J.A.C.</u> 6A:14-2.8	Discipline/suspension/expulsions
	<u>N.J.A.C.</u> 6A:16-1.1 <u>et seq.</u>	Programs to Support Student Development
	See particularly:	
	<u>N.J.A.C.</u> 6A:16-1.4,-2.4-4.1, -5.1, -6.1, -6.2, -7.1 through -7.6	
	<u>N.J.A.C.</u> 6:32-12.1	Reporting requirements
	<u>N.J.A.C.</u> 6:32-12.2	School-level planning

P.L. 2007, c.129, amends N.J.S.A. 18A:37-15 and includes electronic communication in the definition of public school “harassment, intimidation or bullying”

20 U.S.C.A. 1415(k) Individual with Disabilities Education Act Amendments of 1997

Bethel School District No. 403, v. Fraser, 478 U.S. 675 (1986)

Hazelwood v. Kuhlmeier 484 U.S. 260 (1988)

Honig v. Doe, 484 U.S. 305 (1988)

See also Commissioners’ Decisions indexed under “Students – Punishment of” in Index to N.J. School Law Decisions

No Child Left Behind Act of 2001, Pub. L. 107-110, 20 U.S.C.A. 6301 et seq.

L.W. v. Toms River Regional Schools Board of Education, N.J., No. A-111-05 (Feb. 22, 2007), 2007 N.J. LEXIS 184. The New Jersey Supreme Court ruled that a school district may be held liable under the New Jersey Law Against Discrimination (LAD), N.J.A.S. 10:5-1 to -49, when students harass another student because of his perceived sexual orientation. A district school will be liable for such harassment if it knew or should have known of the harassment but failed to take reasonable remedial actions. The matter was remanded to the Director of the Division of Civil Rights.

Manual for the Evaluation of Local School DistrictsA Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials (1999 Revisions)

Cross References:	1220	Ad hoc advisory committees
	1410	Local units
	3541.33	Transportation safety
	4131/4131.1	Staff development; in-service education/visitation conferences
	4231/4231.1	
	4119.22/4219.22	Conduct and Dress
	5000/5010	Concepts and roles in student personnel
	5020	Role of parents/guardians
	5113	Absences and excuses
	5114	Suspension and expulsion
	5124	Reporting to parents/guardians
	5127	Commencement activities
	5131.5	Vandalism/violence
	5131.6	Drugs, alcohol, tobacco (substance abuse)
	5131.7	Weapons and dangerous instruments
	5132	Dress and grooming
	5145.4	Equal educational opportunity
	5145.6	Student grievance procedure
	5145.11	Questioning and apprehension
	5145.12	Search and seizure
	6145	Extracurricular activities
	6171.4	Special education
	6172	Alternative educational programs



**Regulation**

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CODE OF STUDENT CONDUCT

The Code of Student Conduct applies to all students and takes into account the nature of the behaviors, the developmental ages of the students, and their histories of problem behaviors and performance. Modifications must be considered for students enrolled in the Early Childhood programs. The Code of Student Conduct applies any time a student is on school property, riding in a school owned or operated vehicle, at school-sponsored events on or off school grounds, and at any time the student is under school jurisdiction.

Academic Achievement

The district's mission is to ensure that the students are provided with excellent educational experiences and services to inspire them to think, to learn, to achieve and to care. With this mission in mind, each student is awarded an opportunity to maximize his/her academic and behavioral growth, and potential. It is through the structure of the Code of Student Conduct that the district's students have the right to be educated in a safe, orderly, and secure environment.

Student Conduct

Student misconduct is classified within levels of violations as indicated in the attached Student Conduct Rubric. The definitions of misconduct are not all-inclusive, but are representative and illustrative. School district staff must use intervention strategies and positive behavioral supports in anticipation that such strategies and behavioral supports will provide for a safe, orderly, secure, and healthy school environment.

Serious and/or unlawful misconduct or infractions of the Code of Student Conduct should be referred directly to the building administrator. At the option of the building administrator, a student accused of any violation of the Code of Student Conduct may be referred to a school guidance counselor, social worker, other appropriately trained school staff, or in the case of a student with disabilities, the student's child study team (CST) case manager or other member of the CST, in conjunction with, or in lieu of, other disciplinary procedures.

Behavioral Supports That Promote Positive Student Development

Discipline problems, whether persistent or intermittent, diverts valuable personnel resources from instruction and disrupts student learning. Explicit teaching, consistent application and recognition of school rules and behavioral expectations by staff school-wide provide a key foundational support for students. The lack of immediate, positive interventions, which can be provided individually or in small groups, may result in the escalation of student discipline problems, an increase in referrals to special education, and a decrease in overall academic achievement environment of the school.

A data driven, tiered system of positive behavioral supports can address these challenges and be designed to result in the following outcomes:

- A. Improvements in overall building climate;
- B. Reduction in office discipline referrals and suspensions for all students;
- C. Reduction in the number of students who receive repeated office discipline referrals;
- D. Reduction in the number of students referred for special education services; and
- E. Increase in the number of students with disabilities and challenging behaviors who are successful in general education settings.

Each school's positive behavioral supports should include:

- A. A posted behavioral expectations chart developed and agreed upon by the staff in the building;
- B. A documented system for teaching behavioral expectations to students on an annual basis;
- C. A documented recognition system for students that can be articulated by students and staff;
- D. A documented system for dealing with and reporting specific behavioral violations;
- F. An agreed upon identification of what problems are office-managed and what problems are classroom-managed;
- G. A discipline referral form that includes the following information – student/grade; time; referring staff; problem behavior; location; person involved; probable motivation; and administrative decision;
- H. A system for collecting and summarizing discipline data;
- I. A system for reporting discipline data to the entire staff at least three times a year; and a system for utilizing discipline data for the purposes of making decisions regarding the design, implementation and revision of school-wide effective behavior supports;
- J. A school improvement plan that includes behavior support systems as one of the top three priorities;
- K. A system that identifies specific activities to enhance behavior supports within the school that are evaluated on at least an annual basis using a variety of data sources, including discipline, and data;
- L. A school budget allocation line to support building and maintaining positive behavior support systems within the school.

### Student Due Process Rights

Students are entitled to their due process rights when their infractions of the Code of Student Conduct results in a short or long term suspension. Their due process rights include:

- A. Provision of the Code of Student Conduct,
- B. Identification of the specific allegations as to what they did as a breach of the Code of Student Conduct,
- C. Specific facts on which the allegations are based,
- D. Specific provision of the Code being violated,
- E. The right to a hearing,

- F. The right to an appeal process,
- G. The provision of a list of available support services:
- H. The specific terms of their suspension,
- I. Notification to their parents regarding the student's due process rights,
- J. The provision of a list of community health and social service providers, and
- K. Identification of the alternative academic instruction if the student is suspended longer than four (4) days.

### Short Term Suspensions

The following guidance is provided regarding short term suspensions. Short term suspensions are defined as suspensions of ten (10) days or less (however educational services must be provided on the fifth day of suspension, if the suspension is greater than five days). Unless the suspension is of such seriousness that the potential outcome is expulsion, administrators are advised to cap suspensions at four (4) days.

If the student is a general education student and is suspended for more than four days they must be provided with an alternative academic instruction. The school is responsible for developing an Individualized Program Plan (IPP) outlining the details of the alternative instruction for the student, which is implemented on the fifth day of the suspension. The IPP requires a minimum of ten (10) hours of educational services in addition to ten (10) hours of project-based instruction. It is the responsibility of the school to administer the IPP to ensure minimal impact on the education of the student.

Students with disabilities suspended for more than four days must receive home instruction on the fifth day of suspension. When a student with disabilities is suspended for more than four days the student's CST case manager must be notified immediately to ensure that a home instruction IEP is developed, that a manifestation determination meeting is scheduled, and that the student is provided with appropriate due process as indicated in special education code. If the manifestation determination meeting concludes that the misconduct is a result of the student's disability, no further disciplinary action can occur, the student is returned to school, and the record of the student suspension must be removed from the student file.

#### A. Short Term Suspension Procedures

In each instance of a short term suspension, the due process rights of a student suspended for ten (10) consecutive days or less are assured by providing the following:

1. As soon as practicable, provide oral or written notice of charges to the student. When charges are denied, an explanation of the evidence forming the basis of the charges is also provided.

2. An informal hearing prior to the suspension in which the student is given the opportunity to present his/her version of events regarding his/her actions leading to the short term suspension, and the student and his/her parent/guardian is provided notice of the school's actions.
  - a. The informal hearing is conducted by the building administrator or designee;
  - b. To the extent that the student's presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the educational process, the student may be immediately removed from school or educational program and the informal hearing is held as soon as practical after the suspension;
  - c. The informal hearing should take place even when a school staff member has witnessed the conduct forming the basis of the charge; and
  - d. The informal hearing and the notice given may take place at the same time.
3. Oral or written notification to the student's parents of the student's removal from the school or educational program prior to the end of the school day on which the building administrator makes the decision to suspend the student, which must include an explanation of :
  - a. The specific charges;
  - b. The facts on which the charges are based;
  - c. The provision(s) of the Code of Student Conduct the student is accused of violating;
  - d. The student's due process rights which includes in writing Step Nos. 1 and 2 above; and
  - e. The terms and conditions of the suspension.
4. Appropriate supervision of the student while waiting for the student's parent to remove the student from school during the school day.
5. Academic instruction either in school or out of school that addresses the Core Curriculum Content Standards (which may include a public educational program). The academic instruction must be provided:
  - a. On the fifth day of the suspension;
  - b. For no fewer than ten (10) hours per week of one-on-one instruction by a certified teacher and an additional ten (10) hours of guided learning experiences that may include the use of technology to provide audio and visual connections to the student's classroom;
  - c. Can be delivered through an after-school, including a Saturday program; and
  - d. Must follow the Individualized Program Plan (IPP) as developed by the I&RSS committee.
6. The suspending principal must immediately report the suspension to the Superintendent or his/her designee who is required to report it to the Board of Education at its next regular meeting.
7. The student may not participate in extracurricular activities, school functions, sports or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.

8. For a student with a disability, the provisions as indicated above must be followed with the exception that academic instruction will take place as home instruction, with an Individual Educational Program (IEP) that delineates the content of the ten (10) hours of instruction. All procedural protections as indicated in special education code will be maintained and exercised.

### Long Term Suspensions

The following guidance is provided long term suspensions. Long term suspensions are defined as suspensions of ten (10) days or more. Long term suspensions should only be considered if the student's violation of the Code of Student Conduct warrants a potential expulsion hearing. If however, the student is suspended for more than ten (10) consecutive days and the student's breach of the Code of Student Conduct does not warrant a potential expulsion hearing, the due process rights of the student must be maintained, which includes a formal hearing upon the student's return to school. The formal hearing is held at the student's school. The formal hearing is to be scheduled after school hours and adhere to the requirements as indicated below. The regulations written below outline the specifics that must occur at the formal hearing. Educational services for students suspended for more than four days (as indicated above) must be provided in the same manner as previously outlined for general education students and students with disabilities.

#### A. Long Term Suspension Procedures

In each instance of a long term suspension, the due process rights of a student suspended for more than ten (10) consecutive days or more are assured by providing the following:

1. Immediate notification to the student of the charges, prior to the student's removal from school.
2. An informal hearing prior to the suspension in which the student is given the opportunity to present his/her version of events regarding the student's actions leading to the long term suspension and the school's actions taken.
3. Immediate notification to the student's parents of the student's removal from school.
4. Appropriate supervision of the student while waiting for the student's parents to remove the student from school during the school day.
5. Written notification to the parents by the building administrator within two (2) school days of the initiation of the suspension. Written notification must state the following:
  - a. The specific charges;
  - b. The facts on which the charges are based;
  - c. The student's due process rights which includes in writing Step Nos. 1 and 2;
  - d. That further engagement by the student in conduct warranting expulsion, will constitute a knowing and voluntary waiver of the student's right to a free public education, in the event that a decision to pursue expulsion is made by the Board; and
  - e. Written acknowledgement of the notification indicated in No. 5 above from the parents and the student subsequent to the removal from the student's educational program.

6. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing (see Step No.11 regarding the formal hearing).
7. A student with a disability must have a manifestation determination meeting, in compliance with special education code.
8. A list of resources (local attorneys and legal resource) is provided to the parent/guardian regarding the right of the student to secure an attorney.
9. Educational services, either in school or out of school, that are comparable to those provided in school for students of similar grades and attainments:
  - a. Services must be provided on the fifth day of the suspension;
  - b. The program and support services for the suspended general education student will be based at a minimum on the following criteria:
    - (1) A behavioral assessment or evaluation including, but not limited, to a referral to the child study team, as appropriate;
    - (2) The results of any relevant testing, assessments or evaluations of the student;
    - (3) The student's academic, health and behavioral records;
    - (4) The recommendation of the central office administrator, principal or other relevant school or community resource;
    - (5) Consideration of parental input; and
    - (6) Consultation with the I&RSS committee.
10. Educational services provided to a student with a disability must be provided consistent with the student's IEP in compliance with special education code.
11. The formal hearing at a minimum must:
  - a. Be conducted by the District Board of Education or designated by the Board to a Board Committee for the purpose of determining facts or making recommendations;
  - b. The District Board of Education committee consists of the Assistant Superintendents and Instructional Supervisors;
  - c. Maintain a taped transcript or detailed report of the hearing before taking final action;
  - d. Include the opportunity for the student to confront and cross-examine witnesses, when there is a question of fact, and be provided the opportunity to present his/her own defense and produce oral testimony or written supporting affidavits;
  - e. Take place no later than thirty (30) calendar days following the day the student is suspended from the general education program;
  - f. Be held in a location that ensures the privacy of all attendees; and
  - g. Result in a decision by the District Board of Education Committee which is based on the preponderance of competent and credible evidence.

12. Provide a written statement to the student's parent(s)/guardian(s) of the school-level hearing committee's decision within five (5) school days after the close of the formal hearing that includes:
  - a. The charges considered;
  - b. A summary of the documentary or testimonial evidence from both the student and the administration that was brought before the school level hearing committee;
  - c. Factual findings relative to each charge and the school level hearing committee's determination of each charge;
  - d. Identification of the educational services to be provided to the student pursuant to No. 9 above;
  - e. The terms and conditions of the suspensions; and
  - f. The right to appeal the District Board of Education's decision regarding the student's general education program to the Commissioner of Education.
13. The immediate return to the general education program if at any time it is found that the general education student did not commit the offense.
14. For a student with disabilities found not to have committed the offense, the student's program will be determined in accordance to special education code.
15. At the completion of the long term suspension, the school level-hearing committee shall return the general education student to the general education program;
16. Suspension of general education students shall not be continued beyond the Board's second regular meeting following the suspension, unless the Board so determines that the suspension will continue.
17. The Board will determine whether to continue the suspension based on the following criteria:
  - a. The nature and severity of the offense;
  - b. The results of any relevant testing, assessments or evaluations of the students; and
  - c. The recommendation of the superintendent, principal of an alternative education program, or home or other out-of-school instructional program in which the student has been placed.
18. When the Board votes to continue the suspension of the general education student, the Board (in consultation with the superintendent), shall review the case at each subsequent Board meeting for the purpose of determining:
  - a. The status of the student's suspension;
  - b. The appropriateness of the current educational program for the suspended student;
  - c. Whether the suspended student's current placement, should continue or whether the student should return to the general education program.
19. When the Board votes to continue the suspension of a general education student, the Board (in consultation with the superintendent), shall make the final determination on:
  - a. When the student is prepared to return to the general education program;
  - b. Whether the student shall remain in an alternative education program or receive other in-school or out of school instruction; and

- c. Whether to initiate expulsion proceedings.

20. The Board of Education shall provide a general education student suspended under this section with an appropriate educational program or appropriate educational services until the student graduates from high school or reaches the age of 20 and the educational program shall:
  - a. Be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and special education code N.J.A.C. 6A:14-2 and 4.3, whichever is applicable; or
  - b. The educational services provided, either in school or out of school, shall be comparable to those provided in the schools for students of similar grades.
21. For a student with a disability who receives long term suspension, the Board of Education shall proceed in accordance with the provisions set forth in special education code in determining or changing the student's educational placement to an interim or alternative education setting and;
  - a. Ensure that all procedural protections as indicated in special education code are afforded to each student with a disability who is subjected to a long term suspension;
  - b. Ensure that all decisions concerning the student's educational program or placement shall be made by the student's IEP team; and
  - c. The provisions of #16 through #21 above shall not apply to students with disabilities.
22. Any appeal of the Board of Education regarding the general education student's program shall be made to the Commissioner of Education.

#### Mandated Student Removals from General Education

The following violations constitute a mandated removal from school:

- A. Infractions involving firearms offenses, as outlined in N.J.A.C. 6A:16-5.5;
- B. Infractions involving assault with a weapon, as outlined in N.J.A.C. 6A:16-5.6;
- C. Infractions involving assault on district personnel, as outlined in N.J.A.C. 6A: 16-5.7;

#### Expulsions

The district may elect to expel a student, which constitutes a discontinuation of educational services or payment of educational services for a general education student. Recommendations for an expulsion of a student will be made by the school-level hearing committee to the Assistant Superintendent for Schools. A district-level hearing committee will hear the case at the school site unless otherwise determined. The district level committee will be comprised of the following district personnel;

- A. The Board Attorney,
- B. The Assistant Superintendents



Recommendations for an expulsion of a student must be made based upon transcripts of the formal hearing, and only after the district-level hearing committee has ensured the following:

- A. The procedural due process rights, as indicated above for long term suspension, have been provided to the student;
- B. An appropriate educational program or appropriate educational services, as indicated above and in compliance with N.J.A.C. 6A:16-7.3(f), have been provided to the student;
- C. The school-level hearing committee can assure the district-level hearing committee that the educational program provided was consistent with the provisions or N.J.A.C. 6A: 16-9.2 and 10.2 and for a student with disabilities consistent with the provision set forth in special education code; or
- D. The school-level hearing committee can assure the district-level hearing committee that the educational services, either in school or out of school, were comparable to those provided in the public schools for students of similar grades.

Any appeal of the district-level hearing committee's decision, regarding the expulsion of a student and the cessation of the student's general education program shall be made to the Chief School Administrator and the Elizabeth Board of Education, and:

- A. An appropriate educational program or appropriate educational services shall continue for the student until a final determination has been made on the appeal of the decision to expel the student.

An expulsion of a student with a disability from a receiving school shall be handled in accordance with the provisions established in the special education code.

The Exhibits section of this document provides further guidance when implementing short and long term suspensions and potential expulsion procedures relating to behavior including harassment, intimidation and bullying.

#### Conduct Away from School Grounds

The district has the right to impose a consequence on a student for conduct away from school grounds, including on a school bus or at a school-sponsored function. Each case will be reviewed on a case-by-case basis by the school-level hearing committee, and if warranted appropriate disciplinary actions will be taken. Disciplinary actions need not be restricted to suspensions, and may include a positive behavioral approach to correcting the misbehavior, and/or counseling.

**Date:** October 6, 2008  
**First Reading:** September 18, 2008  
**Second Reading:** October 6, 2008  
**Revised:** **June 25, 2009**  
**First Reading:** June 11, 2009  
**Second Reading:** June 25, 2009

**Exhibit**

CODE OF STUDENT CONDUCT RUBRIC

<b>Behavior</b>	<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>
<p><b>Firearms-Mandatory Removal</b>            N.J.S.A. 2C:39-1(f) "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. Also included is any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compresses or other gas/vapor, air or compresses air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>		
<p><b>Assault with weapons -Mandatory Removal</b>            N.J.S.A. 2C:39-1(r) "Assault with weapons" means anything readily capable of lethal use or of inflicting serious bodily injury. The term includes, but is not limited to, all (1) firearms, even though not loaded or lacking a clip or other component to render them immediately operable; (2) components which can be readily assembled into a weapon; (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood; and (4) stun guns; and any weapon or other device which projects, releases, or emits tear gas or any other substance intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispensed in the air.</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>		

Behavior	1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense	3 <sup>rd</sup> Offense
<p><b>Assault on district personnel- Mandatory Removal</b>                      N.J.S.A. 2C:12-1 "Assault" means (1) the attempt to cause or purposely, knowingly or recklessly cause bodily injury to another; or (2) negligently cause bodily injury to another with a deadly weapon; or (3) attempt by physical menace to put another in fear of imminent serious bodily injury.</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>		
<p><b>Possession</b>                      N.J.S.A. 2C:39-5                      (Reference File Code: 5131) Any person who knowingly has in his possession any other weapon not manifestly appropriate for such lawful uses.</p>	<ul style="list-style-type: none"> <li>• Parent Contact</li> <li>• Short term suspension</li> <li>• Contact Police</li> </ul>		
<p><b>Arson/explosive device</b>                      N.J.S.A. 2C:17-1(b) "Arson" means that the student purposely starts a fire or causes an explosion there; (1) recklessly placing another person in danger of death or bodily injury; or (2) recklessly placing a building in danger of damage or destruction.</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>		
<p><b>Bomb Scare</b>                      Possession of a bomb or a bomb-like device, bomb threat or false information concerning the placement of explosives or destructive substances</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> <li>• Signs waiver to waive rights to a Free and Appropriate Education (FAPE)</li> </ul>	
<p><b>Distribution of Intoxicants/Drug Paraphernalia</b>                      Selling or giving away any drugs, alcohol, placebos, or any other dangerous substance, including prescription medications.</p>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process Rights</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> <li>• Signs waiver to waive rights to a Free and Appropriate Education (FAPE)</li> </ul>	

Behavior	1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense	3 <sup>rd</sup> Offense
<p><b>Using Intoxicants/Drugs Paraphernalia</b> Possession or use of drugs, alcohol, placebos, or other dangerous and/or illegal substances including drug paraphernalia in the school, on school property, or within the drug-free school zone (1000 feet) at any time. This constitutes a violation of State Law and will be strictly enforced.</p>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Contact Police</li> <li>• Drug Testing/Referral</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Contact Police</li> <li>• Drug Testing/Referral</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> <li>• Drug Testing/Referral</li> </ul>
<p><b>Prolonged Intimidation (Verbal abuse and/or Threat) and Bullying including CyberBullying</b> frightening or tormenting another student by verbal threats and taunts. Use of offensive or insulting language directed at staff members or other students. This may include racial, ethnic, or sexual epithets or references used to degrade another person. (Reference File Code 5131, 5131.1, 5131.8)</p>	<ul style="list-style-type: none"> <li>• Parent contact</li> <li>• School level intervention</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• School level intervention</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>
<p><b>Extortion</b> The student attempts to secure money or property through threat of physical harm (explicit or suggested).</p>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Contact Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Contact Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Contact Police</li> </ul>
<p><b>False Fire Alarm</b> Pulling the fire alarm without a legitimate cause</p>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Contact Fire Department for fire safety program</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> </ul>	
<p><b>Physical Assault on Student/Bullying</b> An unprovoked attack on a student on school grounds or in conjunction with a school activity (severity level and Involvement determines degree of offense). (Reference File Code 5131, 5131.1)</p>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• School level intervention</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• School level intervention</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• School level intervention</li> <li>• Possible police involvement</li> <li>• Possible HIB investigation</li> </ul>

Behavior	1 <sup>st</sup> Offense	2 <sup>nd</sup> Offense	3 <sup>rd</sup> Offense
<p><b>Sexual Harassment</b> Unwelcome sexual advances, requests for sexual favors, or other inappropriate verbal, written or physical conduct of a sexual nature on students or staff (severity level and involvement determines degree of offense).</p>	<ul style="list-style-type: none"> <li>• Parent contact</li> <li>• School level intervention</li> <li>• Possible involvement of DCP&amp;P and Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• School level intervention</li> <li>• Possible involvement of DCP&amp;P and Police</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Possible involvement of DCP&amp;P and Police</li> </ul>
<p><b>Vandalism/Theft</b> Destruction or defacement of any school property, including books, supplies, district issued electronic devices, facilities and equipment. Also to include staff's and/or student's personal property.</p>	<ul style="list-style-type: none"> <li>• Parent contact</li> <li>• School level intervention</li> <li>• Restitution</li> <li>• Possible police involvement</li> <li>• Short term suspension</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Short term suspension</li> <li>• Informal hearing</li> <li>• Restitution</li> <li>• School level intervention</li> <li>• Possible police involvement</li> </ul>	<ul style="list-style-type: none"> <li>• Due Process</li> <li>• Long term suspension</li> <li>• Formal hearing</li> <li>• Restitution</li> <li>• Possible police involvement</li> </ul>
<p><b>Computer/Electronic Device Data Misuse</b> Inappropriate and/or unauthorized access to electronic devices or computer equipment including altering of electronic computer data, misuse of equipment, or access to inappropriate electronic content.</p>	<ul style="list-style-type: none"> <li>• Parent contact</li> <li>• Due process rights</li> <li>• Formal hearing</li> <li>• Contact police</li> <li>• Short term suspension</li> </ul>		

**ANY OFFENSE OF A SEVERE NATURE MAY RECEIVE CONSEQUENCES AND POLICE REFERRAL**

**Date:** October 6, 2008  
**First Reading:** September 18, 2008  
**Second Reading:** October 6, 2008  
**Revised:** **August 20, 2015**  
**First Reading:** August 4, 2015  
**Second Reading:** August 20, 2015